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federal register

Tuesday
March 13, 1990

Briefings on How To Use the Federal Register
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DURHAM, NC

WHEN: March 20, at 9:30 a.m.
WHERE: Duke University,
Von Cannon Hall, Bryan Center,
Durham, NC.
RESERVATIONS: 919–684–3030.

SALT LAKE CITY, UT

WHEN: March 29, at 9:00 a.m.
WHERE: State Office Building Auditorium,
Capitol Hill,
Salt Lake City, UT.
RESERVATIONS: Call the Utah Department of
Administrative Services, 801–538–3010.

WASHINGTON, DC

WHEN: March 29, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.

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Presidential Documents

Title 3—

The President

Proclamation 6106 of March 8, 1990

National Consumers Week, 1990

By the President of the United States of America

A Proclamation

Two out of every three dollars spent in America's marketplace are spent by individual consumers. These dollars help create jobs and opportunity for men and women across the country. They also contribute to a strong national economy.

The ingenuity of American business in meeting the demands of consumers has helped keep our markets growing and made our lives more comfortable. In our Nation's free enterprise system, we rely on the ability of consumers and private industry to balance each other's needs and interests in the marketplace, with government intervening only to ensure fairness and the safety of goods and services.

Early in this century, when Henry Ford first introduced his "horseless carriage," the automobile, it was wryly noted that buyers could choose between two colors: black and black. Today consumers are able to select their purchases from a wonderful variety of goods and services. And thanks to expanding world trade and the development of new technologies, the number of options available to consumers promises to keep growing.

The theme for this week, "1990: New Consumer Horizons," reflects the broad scope and ever-changing appearance of the marketplace. The marketplace we know extends far beyond the United States. Relationships with trading partners are being strengthened and restructured. New agreements are bringing consumers of this and other nations ever closer together. Our Nation's productivity and technological leadership, complemented by that of other countries, are helping to create a market as diverse as the world is large.

In dramatic new ways, men and women around the world are learning what we Americans have known for more than 200 years: that the people, not government, are the sovereign. As a new breeze sweeps the world, we see that the rights and freedom individuals demand are economic as well as political. The ballot box may be the first place we express our yearning for freedom and opportunity, but it is not the only place.

This year, as we prepare to welcome a new decade of opportunity for consumers, we also recognize the unique challenges it will pose. To be responsible and discerning consumers, Americans will need certain basic skills and a knowledge of the products and services offered to them. Individuals and families should know how to spend wisely, and they should understand the importance of balancing consumer spending and saving and investing for the future. The ability to read labels, to follow written instructions, and to balance a checkbook is essential not only in the marketplace but also in the workplace. Ensuring that all Americans—especially those young people currently studying in our Nation's schools—gain such knowledge and skills is a responsibility and challenge shared by parents, educators, business leaders, and public officials.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning April 22, 1990, as

National Consumers Week. I urge businesses, educators, community organizations, the media, government, and consumer leaders to conduct activities to emphasize the important role consumers play in keeping our markets open, competitive, and fair. Furthermore, I call upon them to highlight the importance of education in helping citizens to become responsible consumers.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of March, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 90-5904
Filed 3-9-90; 4:45 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12706 of March 9, 1990

Nuclear Cooperation with EURATOM

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to section 126a(2) of such act and extended for 12-month periods by Executive Orders Nos. 12193, 12295, 12351, 12409, 12463, 12506, 12554, 12587, 12629, and 12670, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States non-proliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1991. Executive Order No. 12670 shall be superseded on the effective date of this Executive order.

THE WHITE HOUSE,
March 9, 1990.

[FR Doc. 90-5905
Filed 3-9-90; 4:46 pm]
Billing code 3195-01-M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-ANE-35; Amdt. 39-6411]

Airworthiness Directives; General Electric Company (GE) CF6-6 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error concerning fan disk serial numbers as listed in Tables 1, 2, 2A, 3, and 3A of the above captioned Airworthiness Directive (AD), published in the **Federal Register** on Tuesday, December 12, 1989, (54 FR 51015). The typographical error is the use of the alphabet character "O" in place of the numeric character "0" in the noted tables. In all other respects, the original document is correct.

EFFECTIVE DATE: March 13, 1990.

SUPPLEMENTARY INFORMATION: A final rule AD applicable to certain General Electric Company (GE) CF6-6 series turbofan engines was published in the **Federal Register** on Tuesday, December 12, 1989, (54 FR 51015). This document corrects the noted typographical error concerning the fan disk serial numbers listed in Tables 1, 2, 2A, 3, and 3A. Therefore, replace Tables 1, 2, 2A, 3, and 3A, which appeared in the AD, as follows:

Table 1

MPO00382	MPO00386
MPO00383	MPO00387
MPO00384	MPO00388

Table 2

MPO00352	MPO00357
MPO00354	MPO00358

Table 2—Continued

MPO00359	MPO00397
MPO00360	MPO00398
MPO00361	MPO00399
MPO00362	MPO00482
MPO00363	MPO00404
MPO00364	MPO00407
MPO00365	MPO00411
MPO00368	MPOA0108
MPO00370	MPOA0109
MPO00371	MPOA0110
MPO00372	MPOA0111
MPO00373	MPOA0112
MPO00374	MPOA0113
MPO00375	MPOA0115
MPO00376	MPOA0117
MPO00377	MPOA0133
MPO00378	MPOA0136
MPO00379	MPOA0140
MPO00380	MPOA0141
MPO00389	MPOA0142
MPO00390	MPOA0143
MPO00393	MPOA0145
MPO00395	

Table 2A

MPOA0135	MPOA0182

Table 3

MPO00150	MPO00210
MPO00151	MPO00212
MPO00152	MPO00213
MPO00153	MPO00214
MPO00154	MPO00215
MPO00155	MPO00216
MPO00156	MPO00217
MPO00158	MPO00218
MPO00159	MPO00219
MPO00160	MPO00220
MPO00161	MPO00221
MPO00162	MPO00222
MPO00163	MPO00223
MPO00168	MPO00224
MPO00171	MPO00225
MPO00172	MPO00226
MPO00173	MPO00228
MPO00175	MPO00229
MPO00176	MPO00230
MPO00177	MPO00231
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MPO00187	MPO00241
MPO00188	MPO00242
MPO00189	MPO00243
MPO00190	MPO00244
MPO00191	MPO00245
MPO00193	MPO00246
MPO00194	MPO00247
MPO00195	MPO00248
MPO00196	MPO00249
MPO00197	MPO00250
MPO00198	MPO00251
MPO00199	MPO00253
MPO00200	MPO00254
MPO00204	MPO00255
MPO00205	MPO00257
MPO00206	MPO00258
MPO00207	MPO00260
MPO00208	MPO00263
MPO00209	

Table 3—Continued

MPO00264	MPO00309
MPO00265	MPO00311
MPO00266	MPO00312
MPO00267	MPO00313
MPO00268	MPO00314
MPO00270	MPO00315
MPO00271	MPO00316
MPO00272	MPO00317
MPO00273	MPO00318
MPO00274	MPO00319
MPO00275	MPO00320
MPO00276	MPO00321
MPO00277	MPO00322
MPO00278	MPO00323
MPO00279	MPO00325
MPO00280	MPO00326
MPO00281	MPO00331
MPO00282	MPO00334
MPO00283	MPO00336
MPO00284	MPO00337
MPO00285	MPO00338
MPO00288	MPO00339
MPO00289	MPO00340
MPO00290	MPO00341
MPO00291	MPO00342
MPO00292	MPO00343
MPO00293	MPO00346
MPO00295	MPO00347
MPO00297	MPO00348
MPO00298	MPO00349
MPO00299	MPO00350
MPO00300	MPOA0137
MPO00302	MPOA0139
MPO00303	MPOA0207
MPO00304	MPOA0439
MPO00305	
MPO00308	

Table 3A

MPO00618	MPO00011
MPO00436	MPO00010
MPO00353	MPO00009
MPO00351	MPO00005
MPO00294	MPO00004
MPO00174	MPO00003
MPO00149	MPO00002
MPO00141	MPOH3844
MPO00139	MPOC2744
MPO00136	MPOC6321
MPO00113	MPOA0880
MPO00111	MPOA0810
MPO00109	MPOA0801
MPO00108	MPOA0736
MPO00107	MPOA0662
MPO00104	MPOA0481
MPO00103	MPOA0376
MPO00102	MPOA0291
MPO00078	MPOA0284
MPO00016	MPOA0206
MPO00015	MPOA0200
MPO00014	MPOA0138
MPO00013	MPOC2753
MPO00012	

Issued in Burlington, Massachusetts, on March 2, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service, ANE-100.

[FR Doc. 90-5687 Filed 3-12-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26146; Amdt. No. 1421]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591:
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Indpendence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552 (a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDA) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safey in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on March 2, 1990.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me. Part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective May 3, 1990

Fort Dodge, IA—Fort Dodge Regional, VOR RWY 12, Amdt. 14
Fort Dodge, IA—Fort Dodge Regional, VOR/DME RWY 30, Amdt. 9
Fort Dodge, IA—Fort Dodge Regional, NDB RWY 6, Amdt. 6
Fort Dodge, IA—Fort Dodge Regional, ILS RWY 6, Amdt. 6
Fort Dodge, IA—Fort Dodge Regional, RNAV RWY 6, Amdt. 5
Fort Dodge, IA—Fort Dodge Regional, RNAV RWY 24, Amdt. 5
St. Louis, MO—Lambert-St. Louis Intl, ILS RWY 24, Amdt. 42
St. Louis, MO—Lambert-St. Louis Intl, ILS RWY 30R, Amdt. 6
Columbia, SC—Columbia Metropolitan, RADAR-1, Amdt. 7
McMinnville, TN—Warren County Memorial, LOC RWY 23, Orig.
McMinnville, TN—Warren County Memorial, NDB RWY 23, Orig.

. . . Effective April 5, 1990

Blytheville, AR—Blytheville Muni, NDB-A, Amdt. 4, CANCELLED
Alton/St. Louis, IL—St. Louis Regional, NDB RWY 29, Amdt. 10
Alton/St. Louis, IL—St. Louis Regional, ILS RWY 29, Amdt. 10
Chicago, IL—Chicago Midway, RNAV RWY 22L, Orig.
Appleton, WI—Outagamie County, VOR/DME RWY 3, Amdt. 6
Appleton, WI—Outagamie County, LOC BC RWY 21, Amdt. 7
Appleton, WI—Outagamie County, NDB RWY 3, Amdt. 13
Appleton, WI—Outagamie County, NDB RWY 11, Amdt. 5
Appleton, WI—Outagamie County, NDB RWY 29, Amdt. 7
Appleton, WI—Outagamie County, ILS RWY 3, Amdt. 14
Appleton, WI—Outagamie County, RNAV RWY 29, Amdt. 7
Waukesha, WI—Waukesha County, LOC RWY 10, Amdt. 4

. . . Effective February 14, 1990

Laredo, TX—Laredo Intl, VOR/DME or TACAN RWY 14, Amdt. 7
Laredo, TX—Laredo Intl, VOR or TACAN RWY 32, Amdt. 7
Laredo, TX—Laredo Intl, NDB RWY 17R, Amdt. 8

Note at end of § 97.29 [Amended]

The FAA published an Amendment in Docket No. 26135, Amdt. No. 1419 to part 97 of the Federal Aviation Regulations (VOL 55 FR No. 29 Page 4834; dated Monday, February 12, 1990 under § 97.29 effective February 2, 1990, which is hereby amended as follows:

Washington, DC—Dulles Intl, ILS-2 RWY 19L, Amdt. 1
Change to—
Washington, DC—Washington Dulles Intl, Converging ILS-2 RWY 19L, Amdt. 1
Washington, DC—Dulles Intl, ILS-2 RWY 19R, Amdt. 1
Change to—
Washington, DC—Washington Dulles Intl, Converging ILS-2 RWY 19R, Amdt. 1

Note at end of § 97.33 [Amended]

The FAA published an Amendment in Docket No. 26115, Amdt. No. 1418 to part 97 of the Federal Aviation Regulations (VOL 55 FR No. 20 Page 3049; dated Tuesday, January 30, 1990) under § 97.33 effective 8 MAR 90, which is hereby amended as follows:

Leesburg, VA—Leesburg, Muni, Godfrey Field, RNAV RWY 17, Amdt. 10 is hereby rescinded.

[FR Doc. 90-5686 Filed 3-12-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 455

[Docket No. 89N-0322]

Antibiotic Drugs; Updatings and Technical Changes; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the antibiotic drug regulations by updating and making noncontroversial technical changes in accepted standards for antibiotic and antibiotic-containing drugs for human use (see the **Federal Register** of October 12, 1989 (54 FR 41823)). The regulation for aztreonam for injection was inadvertently published as "§ 455.204 (21 CFR 455.204)". This document corrects that regulation to read "§ 455.204a (21 CFR 455.204a)".

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Office of Regulatory Affairs (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 23982, appearing at page 41823 in the **Federal Register** of Thursday, October 12, 1989, the following corrections are made:

1. On page 41823, in the 2d column, in the paragraph numbered "5.", in the first line, "21 CFR 455.204" should read "21 CFR 455.204a".

2. On the same page, in the 2d column, in the paragraph numbered "6.", in the first line, "21 CFR 455.204" should read "21 CFR 455.204a".

3. On page 41824, in the 3d column, in the amendatory paragraph numbered "9.", in the first line, "455.204" should read "455.204a".

§ 455.204a [Corrected]

4. On the same page, in the 3d column, "§ 455.204" is correctly designated as "§ 455.204a".

Dated: March 6, 1990.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-5696 Filed 3-12-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Diplomatic Security

22 CFR Part 171

[Public Notice 1170]

Predisclosure Notification Procedures for Confidential Commercial Information

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule implements Executive Order 12600 of June 23, 1987 ("the Order") which requires Federal agencies to establish predisclosure notification procedures applicable to requests made under the Freedom of Information Act, 5 U.S.C. 552 ["the FOIA"], for the release of records containing commercial or financial information that is privileged or confidential if the disclosure of those records can reasonably be expected to result in substantial competitive harm to the person who submitted the information. These procedures provide for notice to the submitter and an opportunity for the submitter to object to the disclosure of the records.

EFFECTIVE DATE: April 12, 1990.

FOR FURTHER INFORMATION CONTACT: Frank M. Machak, Acting Director, Office of Freedom of Information, Privacy, and Classification Review, [202] 647-7740.

SUPPLEMENTARY INFORMATION: On August 26, 1988, the Department of State ("the Department") published in the **Federal Register** (53 FR 32626) a proposed rule intended to establish the predisclosure notification procedures for confidential commercial information required by the Order. Public comment was invited, and was required to be received on or before September 26, 1988. Unfortunately, due to administrative oversight, the final rule was not adopted at that time.

The Department received one comment two days after the expiration of the comment period. The comment was made by an association whose stated purpose is to advise reporters and editors on issues of access to government records and proceedings. The association's primary concern was that the notification procedures would adversely affect the Department's ability to respond to an information access request within the FOIA's time limits, and it recommended that the final rule emphasize the need for a timely agency response. The association also suggested that the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., required that the rule be approved by the Office of Management and Budget ("OMB") prior to its implementation.

Inasmuch as section 1 of the Order makes the predisclosure notification procedures applicable only "to the extent permitted by law," and that caveat is included verbatim in §§ 171.16(d) and 171.16(e)(2) of the rule, it initially was believed that the rule sufficiently emphasized the need to comply with all pertinent provisions of the FOIA, including those in respect of the timeliness of an agency's response. However, having reconsidered the comment, the Department has decided to revise §171.16(c)(5) of the rule to eliminate any implication that the need to comply with the Order might justify an otherwise impermissible enlargement of the time within which the Department could respond to a FOIA request. As to the second point, the provision of an opportunity for a submitter to object to the disclosure of its confidential commercial information is not a collection of information within the meaning of the Paperwork Reduction Act. Consequently, the Department is not required to obtain the approval of OMB prior to the implementation of its rule establishing predisclosure notification procedures.

The published version of the proposed rule contained two minor typographical errors. Section 171.16(c)(2)(i) incorrectly was designated as § 171.16(c)(2)(1); and § 171.16(e)(1)(i) incorrectly was designated as § 171.16(e)(1)(l). Appropriate revisions have been made to the final rule. Additionally, some minor changes were made to the "Authority" citation for 22 CFR part 171 and to the wording of the final rule. Except as noted above, no substantive changes were made.

This rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., it hereby is certified that this rule will not have a significant economic impact on a substantial number of small entities. Any economic impact on small entities resulting from this rule would be attributable to the Order, not to these regulations.

List of Subjects in 22 CFR Part 171

Administrative practice and procedure, Classified information, Confidential business information, Freedom of information, Privacy.

For the reasons set forth in the preamble, the Department of State hereby amends Title 22, Chapter I, Subchapter R, Part 171, as follows:

PART 171—[AMENDED]

1. The authority citation for 22 CFR part 171 is revised to read as follows:

Authority: The Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the Administrative Procedure Act, 5 U.S.C. 551, et seq.; the Ethics in Government Act, 5 U.S.C. App. 201; Executive Order 12356, 47 FR 14874; and Executive Order 12600, 52 FR 23781.

2. Section 171.16 is added to subpart B to read as follows:

§ 171.16 Predisclosure notification procedures for confidential commercial information.

(a) *In general.* Confidential commercial information provided to the Department shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. For purposes of this section, the following definitions apply:

(1) *Confidential Commercial Information* means records provided to the Department by a submitter that arguably contain material exempt from release under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm.

(2) *Submitter* means any person or entity who provides confidential commercial information to the Department. The term *submitter* includes, but is not limited to, corporations, state governments, and foreign governments.

(b) *Notice to submitters.* Whenever the Department receives a Freedom of Information Act request for confidential commercial information and, pursuant to paragraph (c) of this section, the submitter is entitled to receive notice of that request, the Department shall promptly notify the submitter that it has received the request, unless such notice is excused under paragraph (g) of this section. The notice shall be in writing and either describe the exact nature of the confidential commercial information requested or provide a copy of the records or portion of the records containing the confidential commercial information. The notice shall be addressed to the submitter and mailed, postage prepaid, first class mail, to the submitter's last known address. Where notice is required to be given to a voluminous number of submitters, in lieu of mailing the notice may be posted or published in a manner and place reasonably calculated to provide notice to the submitters.

(c) *When notice required.* (1) For confidential commercial information submitted prior to January 1, 1988, the Department shall provide a submitter with notice of a receipt of a Freedom of Information Act request whenever:

(i) The records are less than ten (10) years old and the information has been designated by the submitter as confidential commercial information; or

(ii) The Department has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(2) For confidential commercial information submitted to the Department on or after January 1, 1988, the Department shall provide a submitter with notice of receipt of a Freedom of Information Act request whenever:

(i) The submitter has designated the information as confidential commercial information pursuant to the requirements of this section; or

(ii) The Department has reason to believe that the disclosure of the information could reasonably be expected to cause substantial competitive harm.

(3) Notice of a request for confidential commercial information falling within paragraph (c)(2)(i) of this section shall be required for a period of not more than ten (10) years after the date of submission unless the submitter provides reasonable justification for a designated period of greater duration.

(4) A submitter shall use good-faith efforts to designate by appropriate markings, either at the time a record is submitted to the Department or within a reasonable period of time thereafter, those portions of the record which it deems to contain confidential commercial information. The designation shall be accompanied by a certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information

that theretofore has not been disclosed to the public.

(5) Whenever the Department provides notice to the submitter in accordance with paragraph (c) of this section, the Department shall at the same time provide written notice to the requester that it has done so.

(d) Opportunity to object to disclosure. To the extent permitted by law, the notice required by paragraph (c) of this section shall afford a submitter a reasonable period of time within which the submitter or its authorized representative may provide the Department with a written objection to the disclosure of the confidential commercial information. The objection shall set forth in detail all grounds for withholding information and demonstrate why the submitter believes that the records contain confidential commercial information. Except where a certification already had been made in conformance with the requirements of paragraph (c)(4) of this section, the objection shall be accompanied by a certification made by the submitter, its agent or designee, that to the best of the submitter's knowledge, information and belief, the record does, in fact, contain confidential commercial information that theretofore has not been disclosed to the public. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(e) Notice of intent to disclosure. (1) The Department shall give careful consideration to objections made by a submitter pursuant to paragraph (d) of this section prior to making any administrative determination of the issue. Whenever the Department decides to disclose information over the objection of a submitter, the Department shall forward to the submitter a written notice which shall include:

(i) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(ii) A description of the information to be disclosed; and

(iii) A specified disclosure date.

(2) To the extent permitted by law, the notice required to be given by paragraph (e)(1) of this section shall be provided to the submitter a reasonable number of days prior to the specified disclosure date.

(3) Whenever the Department provides notice to the submitter in accordance with paragraphs (e)(1) and (e)(2) of this section, the Department shall at the same time notify the requester that such notice has been given and the proposed date for disclosure.

(f) Notice of lawsuit. Whenever a requester brings suit seeking to compel the disclosure of information for which notice is required pursuant to paragraph (c) of this section, the Department shall promptly notify the submitter that such suit has been filed.

(g) Exceptions to notice requirements. The notice requirements of this section shall not apply if:

(1) The Department determines that the information should not be disclosed;

(2) The information has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552);

(4) Disclosure of the information is required by a Department rule that:

(i) Was adopted pursuant to notice and public comment;

(ii) Specifies narrow classes of records submitted to the agency that are to be released under the Freedom of Information Act; and

(iii) Provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted or a reasonable time thereafter, that disclosure of the information could reasonably be expected to cause substantial competitive harm;

(5) The information requested was not designated by the submitter as exempt from disclosure in accordance with paragraph (c) of this section, when the submitter had an opportunity to do so at the time of submission of the information or a reasonable time thereafter, unless the Department has substantial reason to believe that the disclosure of the information would result in competitive harm; or

(6) The designation made by the submitter in accordance with paragraph (c) of this section appears obviously frivolous; except that, in such case, the Department must provide the submitter with written notice of any final administrative disclosure determination within a reasonably number of days prior to the specified disclosure date.

Dated: February 22, 1990.

Sheldon J. Krys,

Assistant Secretary, Bureau of Diplomatic Security.

[FR Doc. 90-5698 Filed 3-12-90; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 64

[DoD Directive 1352.1]

Management and Mobilization of Regular and Reserve Retired Military Members

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR part 64. It expands the scope of the part to include non-DoD organizations with defense related missions such as Federal Emergency Management Agency (FEMA), Selective Service System and other Federal organizations for utilization of military retirees during mobilization. This part expands DoD policies to use military retirees to meet national emergencies in organizations outside the Department of Defense with Defense-related missions. It also defines the guidelines for determining military retirees who are in key positions in their civilian employment and the procedures the employer must use in requesting they be exempt from mobilization.

DATES: Effective March 2, 1990. Comments will be accepted until April 12, 1990.

ADDRESSES: Office of the Assistant Secretary of Defense (Reserve Affairs), the Pentagon, Room 2D517, Washington, DC 20330.

FOR FURTHER INFORMATION CONTACT: W. Spruell, telephone 202-695-7307.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 64

Armed forces reserves, Military personnel, Retirement.

Accordingly, 32 CFR part 64 is revised as follows:

PART 64—MANAGEMENT AND MOBILIZATION OF REGULAR AND RESERVE RETIRED MILITARY MEMBERS

Sec.

Authority: 10 U.S.C. 672(a), 675, 688, and 973.

§ 64.1 Purpose.

This part implements sections 672(a), 675, 688, and 973 of title 10, United States Code, by prescribing uniform policy and procedures governing the peacetime management of retired military personnel, both Regular and Reserve, in preparation for their use during a mobilization.

§ 64.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD); the Military Departments (including their National Guard and Reserve components); the Chairman, Joint Chiefs of Staff (Joint Staff); the Coast Guard and its Reserve component (by agreement with the Department of Transportation (DoT)); and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein, refers to the Army, Navy, Air Force, Marine Corps, and Coast Guard (by agreement with the DoT).

(b) By agreement with non-DoD organizations that have DoD-related missions, includes organizations with Defense-related missions, such as the Federal Emergency Management Agency (FEMA), the Selective Service System (SSS), and the organizations with North Atlantic Treaty Organization (NATO)-related missions.

§ 64.3 Definitions.

(a) *Key employee.* Any Reservist, or any military retiree (Regular or Reserve) identified by his or her employer, private or public, as filling a key position.

(b) *Key position.* A civilian position, public or private (designated by the employers and approved by the Secretary concerned), that cannot be vacated during war or national emergency.

(c) *Military retiree categories*—(1) *Category I.* Nondisability military retirees under age 60 who have been retired less than 5 years.

(2) *Category II.* Nondisability military retirees under age 60 who have retired 5 years or more.

(3) *Category III.* Military retirees, including those retired for disability, other than categories I or II retirees (includes warrant officers and health-care professionals who retire from active duty after age 60).

(d) *Military retirees or retired military members.* (1) Regular and Reserve officers and enlisted members who retire from the Military Services under 10 U.S.C. chapters 61, 63, 65, 67, 367, 571, 573, or 867 and 14 U.S.C. chapters 11 and 21.

(2) Reserve officers and enlisted members eligible for retirement under one of the provisions of law in definition (d)(1) who have not reached age 60 and who have not elected discharge or are not members of the Ready Reserve or Standby Reserve (including members of the Inactive Standby Reserve).

(3) Members of the Fleet Reserve and Fleet Marine Corps Reserve under 10 U.S.C. 6330.

§ 64.4 Policy.

It is DoD policy that military retirees shall be ordered to active duty (as needed) to fill personnel shortfalls due to mobilization or other emergencies, as described in 10 U.S.C. 672 and 688. DoD Components and the Coast Guard shall plan to use as many retirees, as necessary, to meet national security needs. Military retirees may be used as follows:

(a) To fill shortages in, or to augment, deployed or deploying units.

(b) To fill shortages in, or to augment, supporting units and activities in the Continental United States (CONUS), Alaska, and Hawaii.

(c) To release other military members for deployment overseas.

(d) Subject to the limitations of 10 U.S.C. 973, to fill Federal civilian workforce shortages within the Department of Defense, the Coast Guard, or other Government entities.

(e) To meet national security needs in organizations outside the Department of Defense with Defense-related missions.

§ 64.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Reserve Affairs)* (ASD(RA)) and the *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall provide overall policy guidance for the management and mobilization of DoD military retirees. In addition, the *Assistant Secretary of Defense (Force Management and Personnel)* (ASD(FM&P)) shall:

(1) Validate positions identified by Defense and non-Defense Agencies as suitable for fill by military retirees.

(2) Establish priorities for fill once all requirements are identified.

(3) Provide redistribution guidance.

(b) The *Secretaries of the Military Departments* and the *Commandant of the Coast Guard* shall ensure that plans for the management and mobilization of military retirees are consistent with this part.

(c) The *Directors of the Defense Agencies, the Director of the Federal Emergency Management Agency (FEMA)* and *the Director of the Selective Service System (SSS)* and *other Federal Organizations,* as appropriate, shall, by agreement, assist in identifying military and Federal civilian wartime positions that are suitable for fill by military retirees, and provide a list of requirements to the Office of the Assistant Secretary of Defense (Force Management and Personnel) (OASD(FM&P)) for validation and prioritization before fill by the Military Services. The Services retain the right to disapprove the request if no military retiree is available. At least annually, the requesting Agency shall verify to the OASD(FM&P) the accuracy of their validated requirements and identify any new requirements.

(d) The *Secretaries of the Military Departments,* or designees, shall:

(1) Prepare plans and establish procedures for mobilization of military retirees in conformance with this part.

(2) Determine the extent of military retiree mobilization requirements based on existing inventories and inventory projections for mobilization of qualified Reservists in an active status in the Ready Reserve, the Inactive National Guard, or the Standby Reserve.

(3) Develop procedures for identifying categories I and II retirees and conduct screening of retirees using this part for guidance.

(4) Maintain personnel records and other necessary records for military retirees, including date of birth, date of retirement, current address, and documentation of military qualifications. Maintain records for categories I and II military retirees, including retirees who are key employees and their availability for mobilization, civilian employment, and physical condition. Data shall be maintained on retired Reserve members in accordance with 32 CFR part 114.

(5) Advise military retirees of their duty to provide the Military Services with accurate mailing addresses and any changes in civilian employment, military qualifications, availability for service, and physical condition.

(6) Preassign retired members, when determined appropriate and as necessary.

(7) Determine refresher training requirements in accordance with the criteria established in § 64.6(a)(8).

§ 64.6 Procedures.

(a) *Premobilization*—(1) *Management of military retirees.* Military retiree management systems should provide for rapid identification of retiree location and military skills to expedite reporting of retirees to a wide range of assignments and geographic locations in

mobilization or crisis. As part of the criteria for assignment of individuals to specific mobilization billets, the Military Services should consider the criticality of the mobilization billet, the skills of the individual, and his or her geographic proximity to the place of assignment. To the extent possible, military retirees should be given the opportunity to volunteer for specific assignments. The Military Departments shall develop plans and procedures to identify military retirees excess to their needs. The Military Departments, other DoD Components, FEMA, SSS, and other Federal Agencies, as appropriate, shall provide a list of requirements to the Department of Defense. The Department of Defense shall establish priorities for fill once all requirements and excess personnel are identified and provide redistribution guidance.

(2) *Requirement validation.* The OASD(FM&P) shall review and validate each mobilization requirement for a military retiree. The criteria considered shall be the structure of the organization, the expanded workload requirements in a mobilization environment, current manpower authorizations, and existing manpower infrastructures supporting the organizations.

(3) *Assignment priority.* The priority for use of military retirees shall be:

(i) Use by their own Service.

(ii) Use by another Service or a Defense Agency.

(iii) Use by a civilian Federal Department or Agency.

(iv) Any other approved use.

(4) *Preassignment of categories I and II military retirees.* When determined appropriate by the Military Service concerned, military retirees who physically are qualified maximally should be preassigned in peacetime, either voluntarily or involuntarily, to installations or to mobilization positions that must be filled within 30 days after mobilization. Key employees and category III retirees shall not be preassigned involuntarily. Severe hostilities may prevent the transmittal of mobilization orders to military retirees. All military retirees preassigned to mobilization positions or installations, either voluntarily or involuntarily, shall be issued preassignment or contingent preassignment orders.

(5) *Category III military retirees.* The nature and extent of the mobilization of category III retirees shall be determined by each Military Service, based on the retiree's military skill and, if applicable, the nature and degree of the retiree's disability. Category III retirees generally should be assigned to civilian jobs, unless they have critical skills or volunteer for specific military jobs. Age or disability alone may not be the sole basis for excluding a retiree from active Military Service during mobilization.

(6) *Military retirees living overseas.* Military retirees who live overseas maximally shall be preassigned in peacetime, as determined by the Military Service concerned, to meet mobilization augmentation requirements at overseas, U.S., or allied military installations or activities that are near their places of residence.

(7) *Military retiree information.* The development and maintenance of current information on the mobilization availability of military retirees shall be the responsibility of the Military Services. Such information shall include, but not be limited to, date of retirement, date of birth, current address, and military qualifications. Additionally, the Military Services shall maintain information on the availability for mobilization and the physical condition of categories I and II military retirees. Indication of physical condition may be from certification by the individual military retiree.

(8) *Refresher training.* Each Military Service shall determine the necessity for, and the frequency of, refresher training of military retirees, based on the needs of the Military Service and the specific military skill of the military retiree. Emphasis should be on voluntary refresher training. Civilian-acquired skills may eliminate the need for refresher training.

(9) *Screening of military retirees*—(i) *Each Military Service* shall develop procedures for identifying categories I and II retirees, and shall conduct screening of retirees using this part and 32 CFR part 44 as guidance in formulating screening criteria.

(ii) *All military retirees* shall be advised to inform their employers concerning their liability for recall to active duty in a mobilization or national emergency, and, when applicable, the procedures for designating their position as a key position.

(iii) *Federal employers* annually shall review their employment rolls to determine if they employ any military retirees who are filling key positions, as defined in § 64.3.

(iv) *Non-Federal employers* also are encouraged to use the key position guidelines for making their own key position designations and, when applicable, for recommending certain military retirees for key employees status.

(v) *Key position designation guidelines.* In determining whether or not a position should be designated as a key position, employers should consider the following criteria:

(A) Can the position be filled in a reasonable time after mobilization?

(B) Does the position require technical or managerial skills that are possessed uniquely by the incumbent employee?

(C) Is the position associated directly with Defense mobilization?

(D) Does the position include a mobilization or relocation assignment in an Agency having emergency functions, as designated by E.O. 12656?

(E) Is the position directly associated with industrial or manpower mobilization, as designated in E.O. 10480?

(F) Are there other factors related to national defense, health, or safety that would make the incumbent of the position unavailable for mobilization?

(vi) *Employers* who determine that a military retiree is filling a key position and should not be recalled to active duty in an emergency should report that determination to the cognizant military personnel center, using the letter format shown in Appendix A to this part. The list of Reserve personnel centers to which retiree-recall screening-determination recommendations shall be forwarded is at Appendix B to this part.

(b) *Mobilization*—(1) *General.* The Military Services shall establish plans and procedures to use those military retirees who meet specific skill and experience requirements to fill mobilization billets, when there is not enough active or qualified Reserve manpower available.

(2) *Involuntary order to active duty*—(i) *Twenty-year active military service retirees.* The Secretary of a Military Department may order any retired Regular member, retired Reserve member who has completed at least 20 years of Active Service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve to active duty at any time to perform duties deemed necessary in the interests of national defense in accordance with 10 U.S.C. 675 and 688. Retired Regular members of the Coast Guard may be ordered to active duty by the Secretary concerned only in time of war or national emergency in accordance with 14 U.S.C. 331 and 359.

(ii) *Reserve.* The Secretary of a Military Department may order any other retired member of a Reserve component of a Military Service to active duty for the duration of a war or

emergency and for 6 months thereafter on the basis of required skills, provided:

(A) War or national emergency has been declared by Congress.

(B) The Secretary of the Military Department concerned, with the approval of the Secretary of Defense, determines there are not enough qualified Reserves in an Active status or in the Inactive National Guard, under 10 U.S.C. 672(a).

(3) *Graduated Mobilization Response.* The Military Services shall develop plans and procedures for ordering military retirees to active duty in accordance with a schedule that includes pre-, partial, and full mobilization requirements.

(c) *Peacetime*—(1) *General.* The Military Departments shall establish procedures to order military retirees to active duty during peacetime.

(2) *Voluntary order to active duty*—(i) *Twenty-year active military service retirees.* The Secretary of a Military Department may order retired Regular members, retired Reserve members who have completed at least 20 years of active Military Service, or members of the Fleet Reserve or Fleet Marine Corps Reserve to active duty with their consent at any time in accordance with 10 U.S.C. 688.

(ii) *Other Reserve retirees.* The Secretary of a Military Department may order other retired members of a Reserve component to active duty with their consent in accordance with 10 U.S.C. 672(d).

(3) *Involuntary order to active duty.* The Secretary of a Military Department may order any retired Regular member, retired Reserve member who has completed at least 20 years of active Military Service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve to active duty without the member's consent at any time to perform duties deemed necessary in the interests of national defense in accordance with 10 U.S.C. 688. This includes the authority to order a retired member who is subject to the Uniform Code of Military Justice (UCMJ) to active duty to facilitate the exercise of court-martial jurisdiction under 10 U.S.C. 802(a). A retired member may not be involuntarily ordered to active duty solely for obtaining court-martial jurisdiction over the member.

Appendix A to Part 64—Letter Format to Cognizant Service Personnel Center Requesting Employee Be Screened From Retiree-Recall Program

From: (employer-Agency or company)
To: (appropriate Military Service personnel center)

Subject: Request for Employee to Be Removed from Retiree-Recall Program

This is to certify that the employee identified below is essential to the nation's defense efforts in (his or her) civilian job and cannot be mobilized with the Military Services in an emergency for the following reasons:

Therefore, I request that (he or she) be exempted from recall to active duty in a mobilization or national emergency and that you advise me accordingly when that action has been completed.

The employee is:

Name of employee (last, first, M.I.)
Military grade and Military Service component
Social security number
Current home address (street, city, state, and ZIP code)
Title of employee's civilian position
Grade or salary level of civilian position
Date (YYMMDD) hired or assigned to position

Signature and Title of Agency Company Official

Appendix B to Part 64—List of Reserve Personnel Centers to Which Retiree-Recall Screening Determination Shall Be Forwarded

Army

Commander
U.S. Army Reserve Personnel Center
ATTN: DARP-PAR-M
9700 Page Boulevard
St. Louis, MO 63132-5200

Navy

Commanding Officer
Naval Reserve Personnel Center
ATTN: NRPC Code 10
New Orleans, LA 70149

Marine Corps

Commandant (Code RES)
Headquarters, U.S. Marine Corps
Washington, DC 20380

Air Force

Air Reserve Personnel Center
7300 East First Avenue
Denver, CO 80280

Coast Guard

Commandant (G-RSM-1)
U.S. Coast Guard
2100 Second St. SW
Washington, DC 20593

Dated: March 8, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-5716 Filed 3-12-90; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-110; RM-6639]

Radio Broadcasting Services; Harlem, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 236A to Harlem, Georgia, at the request of TM Broadcasting. See 54 FR 2335, May 23, 1989. Channel 236A can be allotted to Harlem in compliance with the Commission's minimum distance separation requirements. The coordinates are North Latitude 33-24-54 and West Longitude 82-18-42. With this action, this proceeding is terminated.

DATES: Effective April 20, 1990; The window period for filing applications will open on April 23, 1990, and close on May 23, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-110, adopted February 21, 1990, and released March 7, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Georgia by adding Harlem, Channel 236A.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-5622 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-485; RM-6942]

Radio Broadcasting Services; Creston, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of G.O. Radio, Ltd., substitutes Channel 267C3 for Channel 269A at Creston, Iowa, and modifies its license for Station KITR-FM to specify the higher powered channel. Channel 267C3 can be allotted to Creston in compliance with the Commission's minimum distance separation requirements and can be used at the station's present transmitter site. The coordinates for this allotment are North Latitude 41-05-41 and West Longitude 94-22-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 20, 1990.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-485, adopted February 22, 1990, and released March 7, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Iowa is amended by removing Channel 269A and adding Channel 267C3 at Creston, Iowa.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-5621 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 89-65; FCC 90-85]

Amateur Service Rules Concerning Frequencies Authorized for Automatically Controlled Stations in Beacon Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the amateur service rules by relocating the frequency segments for automatically controlled beacon stations in the 2 meter and 70 centimeter bands. The rule amendment is necessary so that beacon station reception will be minimally disrupted by interference from amateur stations engaging in moonbounce and other experimental communications. The effect of the rule amendment is to make the information obtained from beacons more useful in conducting propagation experiments.

EFFECTIVE DATE: May 18, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted February 26, 1990, and released March 7, 1990. The complete text of this Commission action, including the rule amendment, is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239) 1919 M Street, NW., Washington, DC. The complete text of this Report and Order, including the rule amendment, may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. The amateur service rules have been amended by relocating the frequency segments for automatically controlled beacon stations in the 2 meter and 70 centimeter bands. As a result of the relocation, less disruption to beacon station reception should occur. Thus, beacon station information will be more useful in conducting propagation experiments.

2. It was suggested that the 2 meter beacon segment be relocated to 144.300-144.320 or 144.325 MHz. The Commission, however, rejected such suggestion and relocated the 2 meter beacon segment as originally proposed at 144.275-144.300 MHz, noting that the suggested change was not significant enough to warrant deviating from the proposal.

3. The Commission also rejected a suggestion to relocate the 220.05-220.06 MHz beacon segment in the 1.25 meter band, stating that such relocation would serve no useful purpose in light of the fact that the 220-222 MHz segment is to be deleted from the amateur service when it becomes available for use by the land mobile service.

4. The amended rule is set forth at the end of this document.

5. The rule adopted herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and found to contain no new or modified form, information collection, and/or record keeping, labeling, disclosure, or record retention requirements, and will not increase or decrese burden hours imposed on the public.

6. The amended rule is issued under the authority of 47 U.S.C. 154(i) and 303(r).

List of Subjects in 47 CFR Part 97

Amateur radio, Beacons, Frequencies, Radio.

Amended Rule

Part 97 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 97—[AMENDED]

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

2. Section 97.203(d) is revised to read as follows:

§ 97.203 Beacon station.

* * * * *

(d) A beacon may be automatically controlled while it is transmitting on the 28.20-28.30 MHz, 50.06-50.08 MHz, 144.275-144.300 MHz, 220.05-220.06 MHz, 222.05-222.06 MHz or 432.300-432.400 MHz segments, or on the 33 cm and shorter wavelength bands.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-5626 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 300

Incorporation by Reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule gives notice of current revisions to the May 1989 Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual) that have been published and forwarded to all holders of the manual. The revisions cover the changes in various government policies relating to the United States Government use of the radio frequency spectrum. These changes have been adopted by the Interdepartment Radio Advisory Committee (IRAC) and approved by the National Telecommunications and Information Administration.

EFFECTIVE DATE: April 12, 1990.

FOR FURTHER INFORMATION CONTACT: Edwin E. Dinkle, National Telecommunications and Information Administration, Department of Commerce, Room H1605, 14th and Constitution Avenue NW., Washington, DC 20230; (202) 377-0599.

SUPPLEMENTARY INFORMATION: The President by Reorganization Plan No. 1 of 1977 and Executive Order 12046 of March 27, 1978 delegated to the Secretary of Commerce authority to act for the President or under the President's authority in the discharge of certain Presidential telecommunication functions under the Communications Act of 1934, as amended, and the Communications Satellite Act of 1962.

The Secretary of Commerce has delegated this Presidential authority to the Assistant Secretary of Commerce for Communications and Information (the Assistant Secretary). The Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual) is issued by the Assistant Secretary and is specifically designed to detail the Assistant Secretary's frequency management responsibilities.

List of Subjects in 47 CFR Part 300

Incorporation by reference, Radio telecommunications.

For the reasons set out in the preamble, title 47, chapter III, part 300 of the Code of Federal Regulations is amended as set forth below.

PART 300—(AMENDED)

1. The authority citation for part 300 continues to read as follows:

Authority: E.O. 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp., P. 158.

2. § 300.1(b) is revised to read as follows:

§ 300.1 Incorporation by Reference of the Manual of Regulations and Procedures for Federal Radio Frequency Management.

* * * * *

(b) The Federal agencies shall meet the requirements set forth in the May 1989 edition of the NTIA Manual, as amended by revisions dated September 1989 and January 1990, inclusive, which is incorporated by reference with the approval of the Director, Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

Richard D. Parlow,

Associate Administrator, Office of Spectrum Management.

[FR Doc. 90-5708 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-60-M

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 90764-0028]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of final initial specifications for the 1990 Atlantic squid and butterfish fisheries.

SUMMARY: NOAA issues this notice of final initial specifications for the 1990 fishing year for Atlantic *Loligo* and *Illex* squid and butterfish. Regulations governing these fisheries require the Secretary of Commerce (Secretary) to publish specifications for the coming fishing year. This action is intended to fulfill this requirement and promote the development of the U.S. Atlantic squid and butterfish fisheries.

EFFECTIVE DATE: January 1, 1990.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's Analysis and recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Management Specialist, 508-281-9273 or Kathi L. Rodrigues, 508-218-9324.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP), prepared by the Mid-Atlantic Fishery Management Council (Council), stipulate at 50 CFR 655.22(d) that the Secretary will publish a notice specifying the final initial annual amounts of the initial optimum yields (IOY), as well as the amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species.

Procedures for determining the initial annual amounts are found at §§ 655.21 and 655.22. The Secretary published a notice of preliminary initial specifications (preliminary notice) for Atlantic squid and butterfish on November 17, 1989 (54 FR 47799). The comment period ended December 14, 1989. Final initial specifications for Atlantic mackerel were published separately on December 20, 1989 (54 FR 31862).

The following table contains the final initial annual specifications in metric tons (mt) for Atlantic *Loligo* and *Illex* squid and butterfish. These specifications are the amounts that the Regional Director, Northeast Region, NMFS, has determined will produce the greatest overall benefit to the nation for the 1990 fishing year beginning January 1, 1990.

TABLE—INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC SQUID AND BUTTERFISH FOR THE 1990 FISHING YEAR, JANUARY 1 THROUGH DECEMBER 31, 1990

[In metric tons (mt)]

Specifications	Squid		Butterfish
	Loligo	Illex	
MaxOY[a]	44,000	30,000	16,000
ABC[b]	37,000	22,500	16,000
IOY	26,010	15,000	10,019
DAH	26,000	15,000	10,000
DAP	26,000	12,000	10,000
JVP	0	3,000	0
TALFF	10	0	19

[a] Maximum OY as stated in the FMP.
[b] IOY can rise to this amount.

No responses to the preliminary notice were received during the comment period. The above

specifications contain no changes from the preliminary notice.

Classification

The action is authorized by 50 CFR part 655 and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: March 7, 1990.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 90-5640 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 49
Tuesday, March 13, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 708

Criteria and Procedures for DOE Contractor Employee Protection Program

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to protect contractor employees from reprisal for disclosing to DOE information regarding practices by their employers which the employees believe to be unsafe, to violate laws, rules, or regulations, or to involve fraud, mismanagement, waste, or abuse, DOE proposes to establish a procedure for investigation, hearing, and review of allegations of such reprisal. The procedure will be available to employees of DOE contractors and first-tier subcontractors performing work related to the activities of the Department at DOE-owned or -controlled sites. Contractors found to have discriminated against an employee in reprisal for such disclosure will be directed by DOE to provide relief to the complainant.

DATES: Written comments must be received by c.o.b. May 14, 1990. Public hearings will be scheduled for dates and times to be determined in Seattle, WA and DOE Headquarters in Washington, DC.

ADDRESS: Comments and requests to speak should be sent to the Director, Office of Industrial Relations, Department of Energy, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Juanita E. Smith or Armin Behr, Office of Industrial Relations, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-9032 or (FTS) 896-9032, or Sandra L. Schneider, Deputy Assistant General Counsel for General Law, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-8618 or (FTS) 896-8618.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

In the control and management of production plants, research and development laboratories, test sites, and other government-owned, contractor-operated facilities involving the activities of the Department of Energy, the Department is responsible for safeguarding public and employee health and safety; ensuring compliance with applicable laws, rules, or regulations; and preventing fraud, mismanagement, waste, and abuse. To this end, the Secretary of Energy has taken vigorous action to assure that all such DOE facilities are well-managed and efficient, while at the same time operated in a manner that does not expose the workers or the public to needless risks or threats to health and safety. DOE is endeavoring to involve both Departmental and contractor employees in an aggressive partnership to identify problems and seek their resolution. In that regard, employees of DOE contractors are encouraged to come forward with information that in good faith they believe evidences unsafe, unlawful, fraudulent, or wasteful practices. Employees providing such information are entitled to protection from consequent discrimination by their employers with respect to compensation, terms, conditions, or privileges of employment.

Currently, policies proscribing employer reprisal are embodied in statutes such as the Occupational Safety and Health Act of 1970 (OSHA), Public Law No. 91-596. Specifically, section 11(c) of OSHA (29 U.S.C. 660(c)) prohibits employers from discharging or in any manner discriminating against an employee because the employee has filed a complaint or caused to be instituted a proceeding under the Act relating to occupational safety and health. As a general rule, the Department of Labor (DOL) enforces the provisions of the occupational safety and health laws. However, in a 1974 Memorandum of Understanding (MOU) between DOL and DOE's predecessor agency, the Atomic Energy Commission (AEC), the AEC was recognized as possessing express statutory authority to prescribe enforceable regulations and orders to provide health and safety protection in connection with any authorized AEC activities. (This would include the activities of DOE contractors at nuclear facilities owned by DOE and operated by contractors.) As set forth in the MOU, section 4(b)(1) of OSHA and section 161(b) and (i)(3) of the Atomic Energy Act of 1954 make the provisions of OSHA inapplicable to the working conditions of AEC contractor employees working in Government-owned, contractor-operated (GOCO) facilities. The MOU recognized that "AEC issues safety and health standards and enforces those standards under its contractual authority pursuant to the AEC statute."

There also exists in current law a so-called "whistleblower" protection provision specifically applicable to Nuclear Regulatory Commission (NRC) licensees. Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) affords reprisal protection to employees of licensees of the NRC who testify, assist, or otherwise participate in proceedings designed to carry out the purposes of the Atomic Energy Act or the Energy Reorganization Act. The Department of Labor also performs the ajudicative functions in section 210 proceedings. In that regard, an issue has arisen at DOE as to whether reprisal complaints made by DOE contractor employees and subcontractor employees are cognizable under the procedures set forth in section 210. In connection with several complaints of reprisal filed by employees of DOE contractors, the jurisdictional issue has prompted administrative litigation resulting in a determination that DOL lacks jurisdiction over DOE contractor-operated facilities, and that section 210 applies to NRC licensees only, and not DOE.

In view of DOE's recognized jurisdiction over complaints of reprisal from employees of its contractors at facilities formerly operated by the Atomic Energy Commission and the Energy Research and Development Administration, the Department established an administrative mechanism to deal with complaints of reprisal by such employees. Under the existing procedure (which has been in effect since shortly after the inception of the Department), a contractor employee who believes that he or she has been the object of reprisal by his/her employer with regard to disclosures involving radiation hazards in the workplace may file a complaint with the cognizant manager or head of the DOE facility involved, who is authorized to

investigate and resolve the complaint. However, the current procedure does not identify specific fact-finding procedures and makes no provision for an on-the-record hearing or Departmental review of the manager's decision. Accordingly, in order to assure workplace conditions as DOE facilities that are harmonious with safety and good management, DOE proposes to improve the current procedures for resolving complaints of reprisal by establishing procedures for independent fact-finding and hearing before a hearing officer at the affected DOE field installation, followed by a Headquarters review by the Secretary or designee. This process is intended to apply to those contractor employees who allege health and safety violations, but are not covered by the Department of Labor procedures. In addition, contractor employees who allege employment reprisal resulting from the disclosure of information relating to waste, fraud, or mismanagement may also utilize these procedures to allege employment reprisal based on disclosure of such information, regardless of whether they are covered by the health and safety protection procedures of the Department of Labor.

The proposed procedures set forth in this notice closely follow the procedures currently utilized by DOL in adjudicating complaints of reprisal filed under section 210 of the Energy Reorganization Act, but are tailored to the unique needs of DOE and its contractual relationship with the contractors to which the rule will apply. The proposed rule enlarges and clarifies DOE's current policy by specifically providing that the reprisal protections apply to contractor employees who report what they, in good faith, believe to be a violation of law, rule, or regulation; a substantial and specific danger to public health or safety; or fraud, mismangement, gross waste of funds, or abuse of authority. As currently drafted, the proposed rule would apply also to first-tier subcontractors. The Department is considering, however, expanding coverage to subcontractors at all tiers. Therefore, we would be interested in receiving public comment on the desirability of such expanded coverage. In addition, the proposed rule is designed to provide an appropriate administrative remedy if a prohibited reprisal is found to have occurred.

II. Organization

The proposed rule is generally organized in chronological fashion, from the filing of the complaint to the eventual implementation by the manager of the final decision of the Department. Proposed § 708.5 lists the types of activities for which employees are to be protected from employer reprisal. Proposed § 708.6 sets forth the procedures to be followed for filing complaints of reprisal. Proposed § 708.7 sets forth a 30 day time period in which the designee of the Head of Field Element shall attempt an informal resolution of a complaint filed under § 708.6 of the proposed rule. Proposed § 708.8 sets forth the procedures for independent investigation, delineates the authority for the investigator to conduct the investigation, and specifies the required contents of the Report of Investigation. Proposed § 708.9 describes the procedures for an on-the-record hearing at the DOE field installation. Under the proposed rule, both the investigator and hearing officer are to be appointed by the Director of Industrial Relations at DOE Headquarters. Such a procedure will help to ensure uniformity and consistency in applying the criteria for selection, training, and proficiency of investigators and hearing officers. Under proposed § 708.10, the hearing officer will be required to submit a recommended decision to the Head of Field Element. In making the recommended decision, the hearing officer may rely upon, but is not bound by, the Report of Investigation. The manager or head of field element will issue the initial agency decision, which shall become final unless one of the parties requests a further review. Under proposed § 708.11, the Secretary or designee is responsible for conducting a review of the entire record at the request of either party, and for issuing a final decision, including an order for appropriate remedy if violations are found to have occurred. The liability for costs incurred by the contractor in implementing the order issued by the Secretary or designee will be consistent with the provisions of the Department of Energy Acquisition Regulation (DEAR). In this regard, a Notice of Proposed Rulemaking, issued in the January 26, 1990 **Federal Register** (55 FR 2796) would amend the DEAR, with respect to certain contracting practices relating to cost allowability for profit making management and operating contractors. In view of DOE's contractual relationship with the contractors to which this proposed rule will apply, the manager or head of field element will be required by § 708.12 of the proposed rule to implement the final decision of the Department under the rule. Since the proposed rule sets forth an elaborate and exhaustive procedure for resolution of complaints of reprisal, the final decision of the Department will not be appealable by the contractor under the Contract Disputes Act. Proposed § 708.13 provides that the Director of Industrial Relations shall assume the duties of the head of field element in cases of real or apparent conflict of interest. Proposed § 708.14 requires contractors to inform their employees of the Contractor Employee Protection Program set forth in this proposed rule. Under proposed § 708.15, the Secretary of Energy may, if he deems it in the public interest, refer any complaints filed pursuant to this proposed rule to other Federal agencies for investigation and factual determination. Proposed § 708.16 permits the Secretary or designee to extend the time frames set forth in the proposed rule. Conforming amendments to the DEAR, as necessary, will be proposed by a separate rulemaking.

III. Opportunity for Public Comment

Interested persons are invited to participate in this rulemaking by submitting written comments with respect to the proposal set forth in this notice. In addition, two public hearings have been scheduled, as set forth in the DATES and ADDRESSES sections of this notice.

A. Written Comments

Comments should be submitted to the address indicated in the ADDRESS section of this notice and should be identified on the envelope with the designation "Rulemaking Comment." Six copies should be submitted. All comments received on or before the date specified in the beginning of this notice will be considered by DOE before taking final action on this rule. All written comments received on the proposed rule will be available for public inspection in the DOE Freedom of Information Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, as well as six copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information or data and treat it according to that determination. This procedure is set forth in 10 CFR 1004.11.

B. Public Hearings

1. Procedure for Submitting Requests to Speak. In order to have the benefit of a broad range of public viewpoints in this rulemaking, DOE will hold two public hearings. Any person who has an interest in this rulemaking proceeding, or who is a representative of any group or class of persons having an interest, may request an opportunity to make an oral presentation at one of the hearings. Such requests should be sent to the address indicated in the **ADDRESS** section of this notice and should be identified on the letter and the envelope with the designation "DOE Contractor Employee Protection Program." All such requests must be received by the time specified at the beginning of this notice.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted.

Each person to be heard is requested to bring to the hearing seven copies of his or her statement. In the event any person wishing to speak cannot meet this requirement, alternative arrangements can be made with the Office of Hearings and Dockets in advance by so indicating in a letter requesting the opportunity to make an oral presentation.

Lists of the persons to be heard at the hearings will be available upon request from the Office of Hearings and Dockets.

The lists will also be available for inspection in the DOE Freedom of Information Reading Room.

2. Conduct of Hearings. DOE reserves the right to select the persons to be heard at the hearings, to schedule the representative presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation is limited to 20 minutes.

A DOE official will be designated to preside at the hearings. The hearings will not be judicial or evidentiary-type hearings, but will be conducted in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement, subject to time limitations. The rebuttal statements will be given in the order in which the initial statements were made. The official conducting the hearings will accept additional comments or questions from those attending, as time permits. Any interested person may submit to the presiding official written questions to be asked of any person making a statement at the hearings. The presiding official will determine whether the question is relevant or whether time limitations permit it to be presented for a response.

Any further procedural rules regarding proper conduct of the hearings will be announced by the presiding official.

Transcripts of the hearings will be made, and the entire record of this rulemaking, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, as provided at the beginning of this notice. Any person may also purchase a copy of the transcript from the transcribing reporter.

DOE may consolidate the public hearings into a single hearing at DOE Headquarters if DOE does not receive sufficient interest concerning the hearing scheduled for Seattle. In that event, DOE will contact each speaker and provide that person the opportunity to present testimony at the hearing conducted at DOE Headquarters. However, DOE will not provide transportation or lodging for such speakers to appear at the Headquarters hearing. DOE will include for the record at the hearing a copy of the statement of any person who requested to speak at a hearing that was cancelled by DOE.

IV. Procedural Requirements

A. Executive Order 12291

Under Executive Order 12291, agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this proposed rule and has determined that it is not a major rule for the following reasons: This rule will not have an annual effect of $100 million or more on the economy; will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises. DOE submitted this notice to the Office of Management and Budget (OMB) for review. OMB has concluded its review.

B. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, DOE finds that sections 603 and 604 of the said Act do not apply to this rule because, if promulgated, the rule will affect only DOE contractors and first-tier subcontractors performing on-site at Government-owned or -leased facilities, and will not have a significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

There is no impact on the human environment under this proposed rule. It is an employee-relations mechanism and deals only with administrative procedures regarding reprisal protection for employees of DOE contractors and subcontractors. Accordingly, DOE has determined that this is not a major Federal action with significant impact upon the quality of the human environment and, therefore, preparation of neither an environmental assessment nor an environmental impact statement is required.

D. Paperwork Reduction Act

Any paperwork burden imposed by the proposed regulation will be minor and will be within the authority granted by OMB Control Number 1910–0600.

E. Federalism

The principal impact of this regulation will be on government contractors and their employees. The regulation is unlikely to have a substantial direct effect on the States, the relationship between the States and the Federal government, or the distribution of power and responsibilities among various levels of government. No Federalism assessment under E.O. 12612 is required.

List of Subjects in 10 CFR Part 708

Energy, Government contracts; Health and safety, Reprisal, Waste, fraud, and mismanagement, Whistleblower.

Berton J. Roth,

Acting Director, Office of Procurement and Assistance Management.

For the reasons set forth in the preamble, DOE proposes to add 10 CFR part 708, as follows:

PART 708—DOE CONTRACTOR EMPLOYEE PROTECTION PROGRAM

Subpart A—General Provisions

Sec.

Subpart B—Procedures

Authority: Atomic Energy Act of 1954, as amended, (42 U.S.C. sections 2201(b), 2201(c), 2201(i), and 2201(p)); Energy Reorganization Act of 1974, as amended, (42 U.S.C. sections 5814 and 5815); Department of Energy Organization Act, as amended, (42 U.S.C. sections 7251, 7254, and 7256); Executive Orders 10865 and 12564.

Subpart A—General Provisions

§ 708.1 Purpose.

This part establishes procedures for prompt and effective processing of complaints by employees of contractors at sites owned or controlled by the Department of Energy (DOE) concerning alleged discriminatory actions taken by their employers in retaliation for the disclosure of information relative to health and safety, mismanagement, and other matters as provided in § 708.5(a).

§ 708.2 Scope.

These procedures apply to employees of contractors or first-tier subcontractors performing on-site at DOE-owned or -leased facilities, unless the procedures contained in part 24, title 29, Code of Federal Regulations, "Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes," are applicable. The protections afforded by this part are not applicable to any employee who, acting without direction from his or her employer, deliberately cuases, or knowingly participates in the commission of, any misconduct set forth in § 708.5 that is the subject of the disclosure. In addition, vendors from whom DOE or a DOE contractor makes small purchases and subcontractors below the first tier are specifically excluded from this rule.

§ 708.3 Policy.

It is the policy of the Department that employees of contractors or first-tier subcontractors at Department of Energy facilities should be able to provide information to the Department concerning violations of law, danger to health and safety, or matters involving mismanagement, gross waste of funds, or abuse of authority, or to participate in proceedings conducted pursuant to this part, without fear of employer reprisal. Contractor employees who believe they have been subject to such reprisal may submit their complaints to the Department for review and appropriate administrative remedy as provided in §§ 708.6 through 708.11 of this part.

§ 708.4 Definitions.

For purposes of this part—

(a) *"Contractor"* means a seller of goods or services under a procurement contract as follows:

(1) Management and operating contracts;

(2) Other types of procurement contracts exceeding $25,000 in amount, with respect to work performed on-site at a DOE-owned or -leased facility;

(3) First-tier subcontracts under paragraph (a) (1) or (2) of this section exceeding $25,000 in amount, with respect to work performed on-site at a DOE-owned or -leased facility; and

(4) For purposes of this part, the term "contractor" does not include contractors whose on-site performance is ancillary to delivery or furnishing of goods or services normally found at commercial facilities where those goods or services are not directly related to the mission of the facility—for example, food services, vending machines, etc. Also, the term does not include a consultant to the Department or to any contractor or subcontractor.

(b) *"Director"* means the Director, Office of Industrial Relations, DOE Headquarters.

(c) *"Discrimination"* or "discriminatory acts" mean(s) discharge, demotion, reduction in pay, coercion, restraint, threats, intimidation, or other negative actions taken against a contractor employee by a contractor, as a result of the employee's disclosure of information as set forth in § 708.5(a) of this part.

(d) *"Field Organization"* means a DOE field-based office which is responsible for the management, coordination, and administration of operations under its purview.

(e) *"Head of Field Element"* (manager) means an individual who is the manager of a DOE operations office, other field office, or field element.

(f) *"Hearing Officer"* means an individual appointed by the Director, Office of Industrial Relations, to conduct a hearing as set forth in § 708.8 of this part and who, upon considering the evidence, makes specific findings and submits a recommended decision and recommended order to the Head of Field Element.

(g) *"Management and Operating Contract"* means an agreement under which the Department of Energy contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -controlled research, development, special production, or testing establishment wholly or principally devoted to one or more of the programs of DOE.

(h) *"Official of the Department of Energy"* means any officer or employee of the Department of Energy whose duties include program management or the investigation or enforcement of law, rule, or regulation relating to Government contractors or the subject matter of the contract.

Subpart B—Procedures

§ 708.5 Prohibition against reprisals.

(a) A Department of Energy contractor covered by this part may not discharge or in any manner demote, reduce in pay, coerce, restrain, threaten, intimidate or otherwise discriminate against any employee because the employee (or any person acting pursuant to a request of the employee) has

(1) Disclosed to an official of the Department of Energy, information that the employee in good faith believes evidences:

(i) A violation of law, rule, or regulation;

(ii) A substantial and specific danger to employee or public health or safety; or

(iii) Fraud, mismanagement, gross waste of funds, or abuse of authority; or

(2) Participated in a proceeding conducted pursuant to this part.

(b) Such disclosure shall be subject to these provisions only if it relates to activities alleged to have occurred under work performed by the contractor for the Department, and that disclosure must not be specifically prohibited by law or specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

§ 708.6 Filing complaint

(a) An employee who believes that he/she has been discriminated against in violation of this part may file a complaint with DOE through the Head of Field Element (manager) at the field organization. The manager shall designate an individual to serve as point of contact for processing the complaint and for undertaking the responsibilities under § 708.7 of this part. The manager shall be screened from participation in the administrative process under this part until such time as the manager is required to consent to a settlement agreement, if one is reached. In addition, the manager is specifically prohibited from initiating or otherwise engaging in *ex parte* discussions on the matter at any time during the pendency of a complaint proceeding under this part.

(b) A complaint filed under paragraph (a) of this section must contain a certification, signed by the complainant, which states specifically the nature of the alleged discriminatory act and of the disclosure giving rise to such act. The certification also must contain one of the following statements:

(1) All attempts at resolution through an internal company grievance procedure have been exhausted;

(2) The company grievance procedure is ineffectual or exposes the grievant to employer reprisals; or

(3) The company has no such procedure.

The complaint must state the factual basis for such certification and that the facts presented are accurate to the best of the complainant's knowledge or belief.

(c) A complaint filed pursuant to paragraph (a) of this section, must be filed within 30 days after the alleged discriminatory act occurred or was discovered, except that in cases where the employee has attempted resolution as set forth in paragraph (b) of this section, the 30-day period for filing a complaint shall begin to run on the day following termination of such dispute-resolution efforts, and the certification required by paragraph (b) of this section shall indicate the date on which those efforts were terminated.

(d) Within 15 days of receipt of a complaint filed pursuant to paragraph (a) of this section, the manager's designee shall notify (1) the contractor, person, or persons named in the complaint; (2) the Director; and (3) the appropriate DOE Headquarters program office, of the filing of the complaint. A copy of the complaint shall be forwarded to the Director.

§ 708.7 Attempt at informal resolution.

(a) The manager's designee shall have 30 days from the date of receipt of a complaint in which to attempt an informal resolution of the complaint, prior to the initiation of a formal investigation. To this end, the manager's designee may attempt to resolve the complaint through consultation and negotiation with the parties involved.

(b) If informal resolution is arrived at, the manager's designee shall enter a settlement agreement which terminates the complaint. The terms of such agreement shall be reduced to writing and made part of the complaint file, with a copy provided to all parties. Any such agreement shall be binding on the parties. The manager's designee may not enter into a settlement terminating a proceeding under this part without the consent of the manager, the complainant, and the contractor.

(c) If informal resolution cannot be reached, the manager's designee shall immediately notify the manager and provide the file to the manager with a brief summary of the attempts at resolution. Upon receipt of the file, the manager shall notify the parties in writing of their right to an investigation under § 708.8 and a hearing under § 708.9 of this part. The manager shall provide a copy of the notification to the Director.

§ 708.8 Investigation.

(a) Unless the manager determines that the complaint has been settled under § 708.7 hereof, is untimely, or that the complaint or disclosure is frivolous or on its face without merit, the manager shall order an investigation of the complaint and request the Director to appoint an investigator. This shall be accomplished within 15 days of receipt of the file from the manager's designee. The manager shall notify the Secretary or designee (with a copy of such notification to the Director) if the manager declines to accept a complaint for investigation, setting forth the specific reasons for such refusal in writing.

(b) If the manager refuses to accept a complaint under paragraph (a) of this section, the administrative process is terminated, unless the Secretary or designee determines that the manager's decision was erroneous. In such case the Secretary or designee shall order the manager to reinstate the complaint and resume the administrative process.

(c) In conducting an investigation under this part, the investigator may enter and inspect places and records (and make copies thereof), may question persons alleged to have been involved in discriminatory acts and other employees of the charged contractor, and may require the production of any documentary or other evidence deemed necessary to determine whether a violation of § 708.5 of this part has occurred.

(d) Investigations under this part shall be conducted in a manner that protects the confidentiality of any person other than the complainant who provides information on a confidential basis.

(e) Within 30 days of appointment, the investigator shall submit a Report of Investigation to the manager and the Director. The Report of Investigation shall become a part of the record, and shall state specifically a finding, and the factual basis for such finding, with respect to each alleged discriminatory act. Within 10 days of receipt of the Report of Investigation, the manager shall serve it on the parties involved by certified mail.

§ 708.9 Hearing.

(a) Within 15 days of receipt of the Report of Investigation, a party may, in writing, request a hearing. Upon the request of one of the parties, the manager shall request the Director to appoint, as soon as practicable, a Hearing Officer to conduct a hearing. The Hearing Officer shall be provided with a copy of the Report of Investigation.

(b) If a hearing is not requested, the manager shall issue an initial agency decision based upon the record, which decision shall be served upon the parties by certified mail. The procedures set forth in §§ 708.10(b) (1) and (2) of this part are applicable to such a decision.

(c) The Hearing Officer to whom the case is assigned shall within seven days following receipt of the Report of Investigation notify the parties of a day, time, and place for hearing. Hearings will normally be held at or near the appropriate DOE field organization, within 60 days from the date the request for hearing is received by the manager, unless the complaint is earlier settled by the parties.

(d) In all proceedings under this part, the parties shall have the right to be represented by a person of their own choosing. Formal rules of evidence shall not apply, but procedures and principles designed to assure production of the most probative evidence available shall be applied. The Hearing Officer may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(e) Testimony of witnesses shall be given under oath or affirmation, and the witnesses shall be subject to cross-examination. Witnesses shall be advised of the applicability of sections 1001 and 1621, title 18, United States Code, dealing with the criminal penalties associated with false statements and perjury.

(f) At the Hearing Officer's discretion he may request the manager to arrange for the issuance of subpoenas for witnesses to attend the hearing on behalf of either party, or for the production of specific documents or other physical evidence, provided a showing of the necessity for such assistance has been made to the satisfaction of the Hearing Officer.

(g) All hearings shall be mechanically or stenographically reported. All evidence upon which the Hearing Officer relies for the recommended decision under § 708.10(a) shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits and other pertinent documents or records, either in

whole or in material part, introduced as evidence, shall be marked for identification and incorporated into the record.

(h) Any party, upon request, may be allowed a reasonable time to file a brief or statement of fact or law. A copy of any such brief or statement shall be filed with the Hearing Officer assigned to the case before or during the proceeding at which evidence is submitted to the Hearing Officer and shall be served upon each other party. The parties may make oral closing arguments, but post-hearing briefs will not be permitted except at the direction of the Hearing Officer. When permitted, any such brief shall be limited to the issue or issues specified by the Hearing Officer and shall be due within the time prescribed by the Hearing Officer.

(i) The Hearing Officer may, at the request of any party, or on his or her own motion, dismiss a claim, defense, or party

(1) Upon the failure without good cause of any party or his or her representative to attend a hearing; or

(2) Upon the failure of any party to comply with a lawful order of the Hearing Officer.

(j) In any case where a dismissal of a claim, defense, or party is sought, the Hearing Officer shall issue an order to show cause why the dismissal should not be granted and afford all parties a reasonable time to respond to such order. After the time for response has expired, the Hearing Officer shall take such action as is appropriate to rule on the dismissal, which may include an order dismissing the claim, defense, or party.

§ 708.10 Initial Agency decision.

(a) The Hearing Officer shall issue a recommended decision within 20 days after the receipt of the transcript from the proceeding at which evidence was submitted or within 20 days after receipt of any post-hearing briefs permitted under § 708.9(h). The recommended decision shall contain appropriate findings, conclusions, and a recommended order and shall be forwarded, together with the record, to the manager. The recommended decision must set forth the factual basis for each and every finding with respect to each alleged discriminatory act. In making such findings, the Hearing Officer may rely upon, but shall not be bound by, the findings contained in the Report of Investigation. The recommended decision shall be served upon all parties to the proceeding.

(b) Within 10 days of receipt of the recommended decision, the manager shall issue an initial agency decision which shall be served on the parties involved by certified mail. The initial agency decision shall be based on the manager review of the entire record, including the Report of Investigation, the transcript, and the recommended decision of the Hearing Officer.

(1) If the manager determines that the complaint is without merit, the initial agency decision shall include a notice stating that the decision shall become the final order of the Department denying the complaint unless, within five calendar days of its receipt, the complainant files a request with the manager for DOE Headquarters review. Copies of any request for further review shall be served by the complainant on all parties.

(2) If the manager determines that the alleged violation has occurred, the manager's initial agency decision shall include an appropriate order to the contractor to abate the violation and to provide the complainant with relief, and notice to the contractor that the decision shall become the final order of the Department unless, within five calendar days of its receipt, the contractor files a request with the manager for DOE Headquarters review. Copies of any request for further review shall be served by the contractor on all parties.

§ 708.11 Final decision and order.

(a) Upon being notified by either party of a request for DOE Headquarters review, the manager shall forward the request, along with the entire record, to the Director, who shall transmit the record to the Secretary or designee.

(b) Within 60 days after receipt of a request for Headquarters review, unless the Secretary or designee directs further processing of the complaint, the Secretary or designee shall issue a final order, based on the record, including the Report of Investigation, the recommended decision of the Hearing Officer, and the initial agency decision by the manager. The final order shall be served upon all parties by certified mail.

(1) If the Secretary or designee determines that further processing of the complaint is necessary, the Secretary or designee will return the case to the Director, with specific instructions for the manager.

(2) Except to the extent prohibited by law, regulation, or Executive Order, all parties will be provided copies of any information compiled as a result of actions taken under paragraph (b)(1) of this section.

(c) If the Secretary or designee determines that a violation of § 708.5 has occurred, the Secretary or designee shall direct the manager to take whatever action the Secretary or designee deems appropriate to abate the violation and to provide the complainant with relief. Relief ordered by the Secretary or designee may include reinstatement, backpay, and reimbursement to the complainant up to the aggregate amount of all costs and expenses (including attorney and expert-witness fees) reasonably incurred by the complainant in bringing the complaint upon which the order was issued.

(d) If the Secretary or designee determines that the party charged has not committed a discriminatory act in violation of § 708.5, the Secretary or designee shall so notify the manager and issue an order dismissing the complaint. If the Secretary or designee determines that there has been no discrimination, the complainant shall not receive reimbursement for the costs and expenses provided in paragraph (c) of this section.

§ 708.12 Implementation of decision.

(a) Upon notification of the final order of the Secretary or designee under § 708.11, or if the manager's or Director's (as provided in § 708.13) initial agency decision becomes the final order pursuant to §§ 708.10(b) (1) or (2), the manager at the affected DOE field organization shall notify the parties, and take all necessary steps to implement the order.

(b) For purposes of sections 6 and 7 of the Contract Disputes Act (41 U.S.C. 605 and 606), an order implemented by the manager pursuant to this part shall not be considered a "claim by the government against a contractor" or "a decision by the contracting officer."

§ 708.13 Conflict of interest.

If the manager determines that a conflict of interest, real or apparent, exists with regard to the manager's participation under §§ 708.6 through 708.10 of this part, the Director shall fulfill the role of the manager, to include issuing the initial agency decision for implementation by the manager.

§ 708.14 Communication of Program to contractor employees.

(a) All contractors shall inform their employees of the DOE Contractor Employee Protection Program, including identification of the points of contact for initiating employment-reprisal complaints.

(b) The information required in paragraph (a) of this section shall be prominently posted in conspicuous places at the contractor worksite, in all places where notices are customarily posted. Such notices shall not be

altered, defaced, or covered by other material.

§ 708.15 Alternative means of resolution.

Notwithstanding the provisions of this part, the Secretary of Energy retains the right to refer complaints filed pursuant to this part to other Federal agencies for investigation and factual determinations, when he deems such referral to be in the public interest.

§ 708.16 Time frames.

The time frames set forth in this part shall be construed as calendar days, and may be extended with the approval of the Secretary or designee.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960-AA59

Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: We are withdrawing the proposed amendment to the regulations entitled "Reopening and Revising Supplemental Security Income Determinations or Decisions Within Four Years of the Notice of the Initial Determination" which was published in the **Federal Register** on August 27, 1986 (51 FR 30499).

DATES: The withdrawal is effective March 13, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, Office of Regulations, Social Security Administration, 3-B-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, telephone (301) 965-1769.

SUPPLEMENTARY INFORMATION:

The Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on August 27, 1986, proposed changing the regulations to provide for the reopening and revising of Supplemental Security Income (SSI) determinations and decisions within 4 years of the date of the notice of the initial determination if we discovered an error affecting a claimant's eligibility or benefit amount during this period through the use of information which we received from data exchange programs involving either our records or our records and those of other Federal or State agencies.

Under the current regulations (20 CFR 416.1487 through 416.1489), a determination or decision may be reopened: (1) Within 12 months of the date of the notice of the initial determination for any reason; (2) within 2 years of the date of such notice if we find good cuase; or (3) at any time if the determination or decision was obtained by fraud or similar fault. The reopening rule applies equally to a determination or decision that results in a finding that the recipient received excess payments or that he or she was underpaid.

In the past, data exchange conditions created a need for the proposed regulations change because some data exchange processing had been delayed to the extent that the data included periods more than 2 years old.

We received comments from five public interest organizations and two State government offices. They all opposed the NPRM.

We are withdrawing the NPRM because we have improved our system processing of data exchange information to the point that we no longer need an exception to the 2-year limit on reopening a determination or decision.

Accordingly, the NPRM published in the **Federal Register** at 51 FR 30499 on August 27, 1986, entitled "Reopening and Revising Supplemental Security Income Determinations or Decisions Within Four Years of the Notice of the Initial Determination", is hereby withdrawn.

Dated: November 7, 1989.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: December 12, 1989.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 90-5718 Filed 3-12-90; 8:45 am]
BILLING CODE 4150-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 90

[Docket No. R90-1470; FR-2705]

RIN 2501-AA95

Comprehensive Homeless Assistance Plan

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would amend provisions of the Comprehensive Homeless Assistance Plan (CHAP), authorized by subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (codified at 24 CFR part 90), by: (1) Requiring States and local governments to provide more in-depth data in their annual CHAPs on the number and characteristics of the homeless population within their jurisdictions, a more detailed inventory of homeless facilities and services, and an expanded needs/resources strategy; (2) amending the definition of "homeless individuals"; (3) providing for a regional or multi-jurisdictional CHAP, under certain circumstances; (4) encouraging a public-private sector participation strategy for addressing homelessness; and (5) amending provisions of the annual CHAP performance report. HUD believes that an improved CHAP will facilitate planning and delivery of homeless resources at the State and local levels, assist the Federal Government to better assess the nature and extent of homelessness, and to more effectively coordinate multiple Federal resources for the homeless. These amended requirements will be phase-in over a three-year period, and will govern the provision of assistance for each of the authorities administered by HUD under title IV of the McKinney Act, as well at the Department of Labor's Job Training for the Homeless program under title VII of the McKinney Act.

DATES: Comments must be received by April 12, 1990.

ADDRESSES: Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (weekdays 7:30 a.m. to 5:30 p.m.) at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk at (202) 755-7084. (Neither of the

telephone numbers listed in this paragraph is toll-free.)

FOR FURTHER INFORMATION CONTACT: For provisions administered by HUD under title IV of the Stewart B. McKinney Homeless Assistance Act: James N. Forsberg, Coordinator, Special-Needs Assistance Programs, Department of Housing and Urban Development, room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 755–6234.

Hearing or speech impaired individuals may call HUD's TDD number: (202) 755–5965.

None of the telephone numbers listed above are toll-free.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Other Matters*. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

Under subtitle A of title IV of the Stewart B. McKinney Homeless Assistance Act (the McKinney Act) (42 U.S.C. 11361), HUD may not make assistance available under title IV to, or within the jurisdiction of, States or certain larger metropolitan cities or urban counties (ESG formula cities or counties), unless the jurisdiction has a HUD-approved Comprehensive Homeless Assistance Plan (CHAP).

On August 14, 1987, HUD published a notice in the **Federal Register** (52 FR 30628) to implement the CHAP requirements under subtitle A of the McKinney Act. When Congress later passed the Stewart B. McKinney Homeless Assistance Amendments Act (42 U.S.C. 11301 et. seq.) ("the Amendments Act") amending certain provisions of subtitle A, HUD published a notice soliciting public comment to implement these requirements (53 FR 52600, published December 28, 1988). In accordance with section 485 of the Amendments Act, HUD then published a final rule on November 7, 1989 which responded to public comments on the notice and which also codified the pertinent CHAP requirements at 24 CFR part 90 (see 54 FR 46566).

The CHAP requirements govern the provision of assistance under the four homeless assistance authorities administered by HUD under title IV of the McKinney Act. These authorities are:

(1) The Emergency Shelter Grants (ESG) program under subtitle B of title IV of the Act (42 U.S.C. 11371 et seq.) (24 CFR part 576);

(2) The Supportive Housing Demonstration program under subtitle C of title IV of the Act (42 U.S.C. 11381 et seq.) (24 CFR part 577—Transitional Housing; and 24 CFR part 578—Permanent Housing for Handicapped Homeless Persons);

(3) The Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program under subtitle D of title IV of the Act (42 U.S.C. 11391 et seq.); and

(4) The Section 8 Housing Assistance payments program for the Moderate Rehabilitation of Single Room Occupancy (SRO) Units for the Homeless under section 441 of the Act (42 U.S.C. 11401).

The CHAP requirements also apply to the Job Training for the Homeless provisions administered by the Department of Labor under title VII, subtitle C of the McKinney Act.

II. Purpose of This Rulemaking

The purpose of this proposed rule is to amend certain CHAP requirements at 24 CFR part 90 to require States and ESG formula cities and counties to submit more information in their annual CHAPs on: (1) The number and characteristics of the homeless population in their jurisdictions; (2) their inventory of facilities and services; and (3) the jurisdiction's strategy for matching its resources to its homeless needs.

The proposed rule would also amend the definition of "homeless individual", permit a CHAP jurisdiction to submit a regional or multijurisdictional CHAP (under certain circumstances), encourage public-private sector participation strategies to address the problem of homelessness, and revise the content of the annual CHAP performance report.

The Department is providing for a 30-day public comment period on this proposed rulemaking, rather than the standard 60 days, because of the need to publish an effective final rule by the spring of 1990 which can be used by ESG formula cities and counties, and States, in preparing their 1990 annual CHAPs. As indicated in HUD's **Federal Register** notice published on August 25, 1989 (54 FR 35436), the submission date for the 1990 CHAP has been changed to July 15 for formula cities and counties, and to August 30 for States.

III. Discussion

Since the enactment of the McKinney Act, States and ESG formula cities and counties have submitted to HUD two separate CHAPs, both of which were prepared under severe time constraints. It was because of these time constraints that HUD intentionally limited the CHAP requirements to those specifically mandated by statute.

However, HUD's review of these initial CHAPs reveals that their quality and comprehensiveness varies widely. HUD attributes this variation to the extent that existing homeless studies, plans and policy statements are available. The most effective CHAPs, from HUD's standpoint, are those that reflected a jurisdiction's active commitment to the problems of the homeless, including a commitment of its resources, and a coordinated public-private strategy for addressing those problems.

Over the past two years, HUD has received numerous comments that the potential of the CHAP as a significant State and local planning and coordinating mechanism to systematically identify homeless needs, assess resources, and develop programs, is not being realized. It has also been suggested that more substantive and standardized CHAPs could serve a guidance function for Federal agencies, providing a consistent assessment of local homeless needs, and of existing and planned resource allocation, that would be valuable for Federal grant award decision-making.

HUD has also been criticized by the General Accounting Office (GAO) for the CHAP's brevity, which the GAO believes limits its usefulness. Meanwhile, the Department has received numerous inquiries from congressional offices about the number and characteristics of the homeless in

various States, cities and counties, to which HUD has been unable to adequately respond because of the limited scope of the CHAP.

For all of these reasons, HUD believes it is time to reconsider the nature and content of the CHAP. With the recent significant increase in McKinney Act funding, there is an even greater need for an improved analysis of homeless needs in CHAPs, and for more effective coordination at the State and local level of multiple Federal resources for the homeless. HUD believes that homeless problems can be solved, and by improving the CHAP analysis of homeless needs and resources, it will be possible to develop more effective and comprehensive Federal, State and local strategies.

HUD has proposed the changes in this rulemaking with the primary goal of making the CHAP a more useful planning and coordinating mechanism at the State and local level. Many of the proposed requirements stem from HUD's review of CHAPs that it considered to be most effective, or from items of information that several jurisdictions have concluded to be essential and which are already being provided in CHAPs.

1. Need for Title IV Assistance

Currently, the CHAP rule codified at 24 CFR part 90 merely restates the McKinney Act's requirement that the CHAP include a statement describing the need for title IV assistance. HUD has indicated in separate field guidance that the CHAP Statement of Need must provide, at a minimum, a description of the need (or lack of need) for each of the title IV, McKinney Act programs.

During HUD's review of sample CHAPs submitted by States and formula cities and counties in February of 1989, almost 70 percent of the CHAPs reviewed provided a numeric estimate of the local homeless population. The remaining CHAPs gave only qualitative information.

Twenty-eight percent of the grantees that provided numeric estimates did not describe the source of their data. The remaining grantees used varying methods to provide this data, ranging from actual counts to the use of multipliers involving the selection of a percentage applied to population or poverty data. Others relied on expert opinion or used information from the 1984 HUD Homeless Shelter Study.

There also was significant variation in the identification of, and time period used to count, the homeless. Approximately one-third of the sample grantees indicated that the estimate was an annual figure, while twenty percent indicated that the estimate represented an average daily number. Approximately one-half of the CHAPs submitted did not indicate whether the estimate was for an average day, a specific point-in-time or an annual figure.

A number of McKinney Act grantees have indicated that they do not believe the CHAP homeless estimates to be reliable. Certainly, the inconsistent reporting of certain data, and the wide variation in methodologies used to generate homeless estimates, undermines the usefulness of the CHAP as a mechanism for State and local planning and coordination. It also lessens the public's ability to assess homeless needs and resources, or homeless assistance efforts.

To remedy these problems, HUD believes that the needs analysis in the CHAP must provide greater gudiance concerning the types of information that must be collected, and the method by which such information must be collected.

At the same time, HUD is also aware of the particular difficulties and burdens associated with counting the homeless. For this reason, the proposed rule provides for a phase-in of data collection requirements. HUD plans to provide technical assistance to grantees to assist them in developing and implementing acceptable methodologies for their needs analyses. In addition, HUD anticipates that the 1990 census (which includes an enumeration of persons in shelters and on the street) will serve as the basis for grantees' preparing their 1992 CHAPs, and HUD representatives have already met with U.S. Census Bureau staff to discuss the availability of this data.

This proposed rule would restructure the Needs Analysis to require information on the number and characteristics of persons located in shelters, on the street, and those at risk of becoming homeless. The in-shelter and on-the-street groups are defined by the McKinney Act definition at § 90.3 of the proposed rule.

The third category, persons at risk of becoming homeless, provides a useful category for identifying groups that can be targeted for homeless prevention strategies and activities. Under the proposed rule, jurisdictions would have the discretion to define this population, although HUD would require that two categories of "at-risk" populations be addressed in the Needs Analysis. These categories are persons with a high probability or in imminent danger of becoming homeless (such as individuals who may become homeless after being released from a mental or penal institution, or from a substance abuse facility), and persons with a history of being homeless. Groups identified by a jurisdiction in the Needs Analysis as being "at-risk" must be addressed in the homeless prevention strategy.

The proposed rule would require an identification of certain characteristics of persons in shelters and, to the extent feasible, of persons on the street. This demographic data would be separately provided for the adult members/head(s) of family households and for the children. This breakout is necessary to avoid the considerable confusion that has arisen in homeless reporting on the number of homeless families and the number of persons in families.

The proposed rule would also require an estimate of the number of homeless persons who are physically handicapped; developmentally disabled; mentally ill; abusers of alcohol or drugs; battered spouses; runaway or abandoned children; veterans; and the unemployed.

In order to minimize any confusion concerning estimates of the number of homeless, HUD distinguishes between point-in-time and annual measures of the number of homeless. Point-in-time is the measurement of the number of homeless on a specific day of the year. Annualized data measures the total number of persons who are homeless during a year. Annualized data will necessarily be greater than point-in-time data, because it measures turnover in the number of the homeless.

Under this proposed rule, HUD would require that information on the number and characteristics of the homeless population be based upon a point-in-time measurement. HUD would not accept the use of an annualized measure of the homeless population, unless an acceptable methodology is used that takes into account potential duplication in counts. HUD also would not accept estimates of the number of homeless based upon expert opinion or the number of persons turned away or referred from shelter or service providers.

The Department does not intend to specify the methodology for collecting homeless data, beyond the considerations mentioned above. However, estimates of the number and characteristics of the homeless, or data on special populations of the homeless, must be accompanied by a description of the methodology used to generate this information, along with the grantee's assessment of the reliability of the data provided.

The proposed rule would permit a qualitative assessment to be used only

for persons or groups that the jurisdiction identifies as being at-risk of becoming homeless. Any numerical estimates of the at-risk population must be accompanied by a description of the methodology used to generate this data.

2. Inventory of Facilities and Services

The current CHAP regulations at 24 CFR part 90 merely restates the McKinney Act language requiring a State or local government to provide an inventory of its facilities and services for the homeless. The regulation does not elaborate upon the types of data to be provided in that inventory.

When the first round of CHAPs were submitted to HUD, there was tremendous variation in the amount of information provided on a jurisdiction's resources vis-a-vis its homeless needs. Some CHAPs contained very detailed listings of individual shelters and facilities serving the homeless, including information on location, number of beds, type of shelter, clientele served, duration of stay and services provided. Some also provided an extensive inventory of various Federal, State and local programs addressing the needs of the homeless. However, other CHAPs provided little or no detailed information on available shelters or services, or included summary data on the number of available shelters and beds.

In reviewing the second round of CHAP submissions, there is clearly a substantial improvement in the level of detail provided in the inventory of facilities and services. Approximately 83 percent of the CHAPs reviewed provided a detailed listing of services and facilities. The majority of these CHAPs contained the following level of detail: 70 percent reported on the types of facilities; 66 percent reported on the types of shelter clients; 59 percent reported on shelter capacity; 57 percent reported on facility services; and 21 percent reported the addresses of various facilities.

Nevertheless, there was still significant variation in the level of detail provided by different CHAP jurisdictions, reflecting the often greater difficulty that States have in gathering this homeless data. Most large cities (89 percent), counties (91 percent), and small cities (88 percent) provided detailed inventories of homeless facilities, compared to only a minority (31 percent) of the States.

In developing the inventory categories under this proposed rule, and particularly in the listing of facilities providing overnight sleeping accommodations, HUD was guided by its assessment of several model CHAPs, and by the experience of numerous CHAP jurisdictions in determining the types of information that had been most useful to them.

The unique difficulty of States in compiling the required inventory was partially addressed in the CHAP final rule published on November 3, 1989 (54 FR 46566). In that rule, HUD required formula jurisdictions to submit their CHAPS to HUD, and to the State in which the jurisdiction was located, 45 days before the State was required to submit its CHAP to HUD. In this way, States could utilize the inventory listings provided by the formula jurisdictions in developing the State-wide inventory of facilities and services.

In this proposed rule, HUD would also give States the option to omit the detailed shelter-by-shelter listing for formula jurisdictions, and to include only the overall tabulation (with overnight sleeping capacity) of existing and proposed shelters contained in their CHAPs. HUD specifically invites public comment on the appropriate nature and scope of the State inventory of facilities and services.

3. Needs/Resources Strategy

The McKinney Act requires a CHAP jurisdiction to provide a strategy to: (i) Match the needs of the homeless population with available facilities and services within the jurisdiction; and (ii) recognize the special needs of various types of homeless individuals, especially families with children, the elderly, the mentally ill, and veterans. In addition, the McKinney Act requires jurisdictions to explain how title IV programs will complement and enhance available facilities and services.

The proposed rule would implement these two statutory requirements by requiring CHAP jurisdictions to provide the following information:

—A strategy for responding to the short-term shelter and service needs of the homeless;

—A strategy for helping different homeless populations make the transition back to more independent living arrangements;

—A strategy for providing housing and supportive services to those portions of the homeless population that are not capable of achieving total independence; and

—A strategy for preventing and eliminating homelessness.

HUD believes that this approach will implement the spirit of the McKinney Act by encouraging CHAP jurisdictions to systematically develop strategies that consider homeless needs in the context of available and projected resources.

Each of these strategies would include an identification of the need for additional facilities and services generally and, if appropriate, for different homeless populations. An action plan containing goals and objectives for addressing facility and service needs through title IV, other McKinney Act, and Federal, State and local resources, would also be required.

The proposed rule would also encourage (under § 90.20(j)) public and private sector participation, in recognition of the fact that the vast majority of homeless assistance providers are private, non-profit organizations. These groups possess an understanding and awareness of the issues concerning the homeless population that would prove invaluable to State and local governments in their preparation of the CHAP. HUD believes that a public-private partnership for addressing homeless needs is the most effective response to the homeless problem, and that the CHAP is one mechanism for forging the necessary public-private partnership.

Moreover, in the course of its review of various cities' homeless assistance policies and practices, HUD has noticed that cities with little or no public-private sector cooperation are more likely to experience duplication or gaps in homeless shelter and service resources. The development of a CHAP public-private cooperation strategy is intended, to the extent possible, to minimize this type of duplication or oversight.

Finally, HUD believes that the adoption of a public-private cooperation strategy will further the communication and coordination among governmental and nonprofit groups serving the homeless. In doing so, the strategy would further one of the requirements of the 1988 Amendments Act, which mandated that each State designate an individual to serve as a contact person for the dissemination of homeless information, and which encouraged States to establish interagency councils on homelessness or to designate a lead agency for homeless activities.

Accordingly, under this proposed rule, jurisdictions would be encouraged to develop a strategy for fostering cooperation between the public and private sectors to assess the needs of the homeless and persons at risk of becoming homeless, and to develop programs, allocate resources, and evaluate strategies and programs to address homeless needs.

4. Other Changes

HUD is proposing in this rule to amend the definition of "homeless" or

"homeless individual" at § 90.3 to include "homeless family." This is an important revision, since homelessness has devastating effects not only for individuals but for the family as a nuclear unit.

The Department is also proposing to define three special populations of the homeless that are referenced at § 90.21(b)(3) (i), (ii) and (iii) of this proposed rule. These include homeless populations that are "developmentally disabled," "severely mentally ill," and "physically handicapped." HUD proposes to define these terms in a manner generally consistent with the definitions used in the Supportive Housing Demonstration program, a McKinney Act homeless program (*see* the final rule published on November 8, 1989 at 54 FR 47024, 47032). These definitions are proposed as follows:

The term "developmentally disabled" would be defined to mean an individual who has a severe chronic disability that is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age 22; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity; (i) Self-care; (ii) receptive and expressive language; (iii) learning; (iv) mobility; (v) self-direction; (vi) capacity for independent living; and (vii) economic self-sufficiency; and reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

The term "severely mentally ill" would be defined to mean an individual who has a chronic and persistent mental or emotional impairment that seriously limits his or her ability to live independently (e.g., by limiting functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, or recreation).

The term "physical handicap" would be defined to mean any individual having a physical impairment that is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently, and is of a nature that the ability to live independently could be improved by a stable residential situation.

The Department specifically requests comment on these proposed definitions, as well as suggestions for alternative definitions, which will be considered in the development of the CHAP final rule.

Under § 90.10(c) of this proposed rule, a jurisdiction would be authorized to submit a multi-jurisdictional CHAP in recognition of the fact that homeless problems, and ultimately solutions, are not a function of jurisdictional boundaries. Under this provision, a CHAP jurisdiction may determine that the most appropriate solution to its homeless problems may be to develop a regional response to better coordinate housing and support services. This multi-jurisdictional CHAP must include a separate listing for each participating jurisdiction of its homeless needs and its inventory of facilities and services, under §§ 90.20 (a) and (b) respectively, as well as a certification by each participating jurisdiction that the multi-jurisdictional or regional CHAP constitutes its annual CHAP submission.

IV. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued on February 17, 1989. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Department recognizes that the increased collection and reporting requirements under this proposed rule will increase the burden imposed upon small jurisdictions that want to obtain Federal homeless assistance under the McKinney Act and, thus, may be cognizable under 5 U.S.C. 605(b) (the Regulatory Flexibility Act). The Department considered providing for more limited reporting requirements applicable to smaller jurisdictions, but has concluded that only uniform requirements, applicable to all CHAPs, would accomplish the rule's purposes of facilitating the planning and delivery of homeless resources, and permitting the effective coordination of multiple Federal resources for the homeless. Moreover, in developing this proposed rule, the Department has been extremely conscious of the need to narrowly tailor these requirements to the minimum needed to achieve these objectives.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54 FR 44702) under Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in this proposed rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. The following provisions of the rule have been determined by HUD to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN; PROPOSED RULE—COMPREHENSIVE HOMELESS ASSISTANCE PLAN

Description of information collection	Section of rule affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Annual submission of CHAPS	90.10	375	1	375	74.00	27,750.00
Sharing of information copies of CHAPS	90.10(a)(2)	375	1	375	0.75	281.25
Assurance of drug-free homeless facility	90.20(j)	375	1	375	0.25	93.75
Annual performance report	90.40(a)	375	1	375	22.00	8,250.00
Substantive responses to HUD recommendations on annual performance report	90.40(b)	125	1	125	3.00	375.00
Total annual burden hours						36,750.00

Family Impact. The General Counsel, as the Designated Official for Executive Order 12606, *the Family*, has detemined that the provisions of this rule do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. The CHAP serves primarily as a State and local tool for assessing homeless needs and coordinating available resources, including assistance under title IV of the McKinney Act. Any effect that this rule may have on families would be indirect only, and beneficial.

Federalism Impact. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the provisions of this rule have "federalism implications" within the meaning of the Order, and thus, meet the Order's threshold of applicabilitiy. The proposed rule would require as a condition of receiving Federal homeless assistance under title IV of the McKinney Act that States and formula cities and counties provide more in-depth data in their annual CHAPs on the number and characteristics of the homeless population within their jurisdictions, as well as a more detailed inventory of homeless facilities and services, and an expanded needs/resources strategy. The Department is requiring these expanded collections for a number of reasons, foremost of which is that HUD believes that the potential of the CHAP as a significant State and local planning and coordinating mechanism to systematically identify needs, assess resources, and develop programs is not being realized. Furthermore, HUD believes that a more substantive and standardized CHAP can serve a guidance function for Federal agencies, providing a consistent assessment of local needs, and of existing and planned resource allocation, which would be extremely valuable in the Federal grant award decisionmaking process. The Department believes that this proposed rule strives to implement these important objectives in the least burdensome manner possible and thereby strikes a careful balance in attempting to minimize the potential for substantial, direct effects on the States and their political subdivisions.

The applicable Catalog of Federal Domestic Assistance program numbers are 14.178 and 14.231.

List of Subjects in 24 CFR Part 90

Grant programs; Housing and community development, Emergency shelter grants, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 90 would be amended to read as follows:

1. The authority citation for 24 CFR part 90 would continue to read as follows:

Authority: Sec. 485, Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11301 *note*); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 90.3, the definition of *homeless* or *homeless person* would be revised to read as follows:

§ 90.3 Definitions.

* * * * *

Homeless, homeless individual, or *homeless family* includes—

(a) An individual or family which lacks a fixed, regular, and adequate nighttime residence; or

(b) An individual or family which has a primary nighttime residence that is—

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(2) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The terms do not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a State law.

* * * * *

3. In § 90.10, the existing paragraphs (c), (d), and (e) would be redesignated as paragraphs (d), (f), and (g) and a new paragraph (c) would be added as follows:

§ 90.10 Plan approval as a condition of assistance.

* * * * *

(c) *Regional or multi-jurisdictional CHAPs.* Regional or multi-jurisdictional CHAPs may be submitted under this section so long as: (1) The CHAP separately identifies the homeless needs and the inventory of facilities and and services for each participating jurisdiction, under §§ 99.20 (a) and (b) respectively; and (2) each participating jurisdiction certifies in the CHAP that the multi-jurisdictional or regional CHAP constitutes its annual CHAP submission.

(d) *Special rules for certain nonprofit organizations.* * * *

(e) *Indian tribes.* * * *

(f) *Federal Register Notice of CHAP Jurisdictions.* * * *

4. In § 90.20, paragraphs (a), (b), (c) and (f) through (j) would be revised and a new paragraph (k) would be added, to read as follows:

§ 90.20 Required elements of the Plan.

The CHAP must include the following elements:

(a) *Need for assistance.* A description of the CHAP jurisdiction's need for assistance under Title IV of the Act, which must include:

(1) A statement describing the CHAP jurisdiction's need, or lack of need, for assistance under Subtitles B through E of Title IV of the Act. (Though not required, CHAP jurisdictions are encouraged to include in this assessment all non-title IV McKinney Act assistance as well);

(2) The characteristics of homeless individuals and families in the CHAP jurisdiction, as specified in §§ 90.21(a) (1) and (2), and §§ 90.21(b) (1), (2) and (3), and including a description of the methodology(ies) used to generate this information, and an assessment of the reliability of the information generated; and

(3) The characteristics of individuals and families at risk of becoming homeless in the CHAP jurisdiction, as specified in § 90.21(a)(3) and § 90.21(c).

(b) *Inventory of facilities and services.* A brief inventory of the facilities and services in the CHAP jurisdiction that assist its homeless or at risk populations, including:

(1) An inventory of the facilities that provide overnight sleeping accommodations, including items specified in § 90.22;

(2) An inventory of any day shelters, soup kitchens, or other facilities providing assistance to the homeless on less than an overnight basis;

(3) An inventory of any shelter voucher assistance programs available to the homeless;

(4) An inventory of all social service or other non-McKinney Act programs that assist the homeless; and

(5) An inventory of programs available to prevent individuals and families from becoming homeless.

(c) *Needs/resources strategy.* A strategy to match the needs of the homeless population in the CHAP jurisdiction with available facilities and services provided with assistance under Title IV of the Act and other Federal, State, local, and private-sector assistance; and to recognize the special needs of various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans. In developing this strategy, CHAP jurisdictions must

provide the information specified at § 90.23.

* * * * *

(f) *Coordination.* If a State designates an agency or person to coordinate homeless assistance efforts in the State, an identification of the person or agency, along with the address and telephone number of the contact.

(g) *Public/private-sector participation strategy.* CHAP jurisdictions are encouraged to submit a public- and private-sector cooperation strategy for assessing the needs of the homeless and persons at risk of becoming homeless in its jurisdiction, and for developing programs, allocating resources, or evaluating strategies to address these needs. The CHAP jurisdiction should include a description of its efforts to involve in the process significant segments of the jurisdiction, particularly various levels of government within the jurisdiction, the private sector, homeless shelter and service providers, and interested citizens and citizen groups.

(h) *Department of Labor Job Training Demonstrations.* In the case of States, a description of how the jurisdiction will coordinate job training demonstration projects for the homeless under subtitle C of title VII of the Act with other services for the homeless assisted under the Act.

(i) *Information copies.* A certification from the CHAP jurisdiction that it has submitted the information copies of its CHAP in accordance with § 90.10(a)(2).

(j) *Assurance of drug- and alcohol-free facilities*—(1) *Assistance to CHAP jurisdictions.* In the case of assistance under any of the authorities of title IV of the Act that is made available to a CHAP jurisdiction, an assurance that the CHAP jurisdiction will administer, in good faith and for the period for which the facility must be used as a homeless facility under the applicable program regulations, a policy for drug- and alcohol-free facilities. The steps must include, at a minimum, an assurance that the CHAP jurisdiction will satisfy itself that the grantee or recipient will adhere to the policy for drug- and alcohol-free facilities as a condition of providing the certification of consistency with the CHAP, as provided in § 90.50(a).

(k) *Transition provisions.* The requirements of paragraphs (a), (b), and (c) of this section will apply to CHAPs submitted in 1990, 1991 and 1992, as follows:

SCHEDULE FOR PHASING IN REVISED COMPREHENSIVE HOMELESS ASSISTANCE PLAN REQUIREMENTS

Description of requirement	1990	CHAPS submitted in 1991	1992
Needs assessment for:			
Shelter population (§ 90.21)	Optional	Yes (only shelter occupancy data from § 90.22(a)(4); other data may be provided at grantee's option.).	Yes, including data under § 90.21(b).
Street population (§ 90.21)	Optional	Yes (Qualitative only)	Yes, including data under § 90.21(b).
At risk population (§ 90.21)	Optional	Yes (Qualitative only)	Yes (Qualitative only).
Inventory assessment under § 90.22	Yes (Except shelter occupany data under § 90.22(a)(4), which is optional).	Yes	Yes.
Strategies assessment under § 90.23	Yes	Yes	Yes.
Description of organization, resources, and methodology that CHAP jurisdiction intends for post-1990 CHAP needs assessment.	Yes	No, unless changed substantially	No, unless changed substantially.

4. 24 CFR part 90 would be amended by adding new §§ 90.21, 90.22, and 90.23, to read as follows:

§ 90.21 Characteristics of homeless individuals and families and at-risk populations.

(a) *Categories of the homeless.* Information on the following categories of the homeless must be provided, as specified in paragraphs (b), (c), and (d) of this section:

(1) Homeless individuals and families that have a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); or an institution that provides a temporary residence for individuals intended to be institutionalized;

(2) Homeless individuals and homeless families that have a primary nighttime residence that is a public or private place not designed for, or oridinarily used as, a regular sleeping accommodation for human beings.

(3) Individuals and families at risk of becoming homeless.

(b) *Required data.* The following information on the characteristics of homeless individuals and families must be provided in the 1992 CHAP submission on the basis of a point-in-time survey. An annualized estimate of such characteristics is not permitted unless a methodology is used that takes into account potential duplication in counts:

(1) *Characteristics of homeless individuals.* The following information must be provided for homeless individuals referred to in paragraph (a)(1) of this section and, to the extent feasible, for homeless individuals referred to in paragraph (a)(2) of this section. (Neither expert opinion nor the number of persons turned away or referred from shelter or service providers are acceptable for estimating these numbers):

(i) *Number.* The total number of such individuals;

(ii) *Age.* The percentages of such individuals who are—

(A) Seventeen years of age and under;
(B) Eighteen through 39 years of age;
(C) Forty through 64 years of age; and
(D) Sixty-five years of age and older;

(iii) *Gender.* The percentage of such individuals who are male and female; and

(iv) *Race or national origin.* The percentages of such individuals who are—

(A) White (non-Hispanic);
(B) Black (non-Hispanic);
(C) Hispanic;
(D) American Indian or Alaska Native; and
(E) Asian or Pacific Islands.

(2) *Characteristics of homeless families.* The following information must be provided for homeless families identified in paragraph (a)(1) of this section and, to the extent feasible, for homeless families referred to in paragraph (a)(2) of this section:

(i) *Number of families.* The total number of such families;

(ii) *Number of persons.* The total number of persons in such families;

(iii) *Number of adults and persons with children.* The total number of adults and persons with children in such families;

(iv) *Number of children.* The total number of children in such families;

(v) *Ages of adults and persons with children.* The percentages of adults and persons with children in such families who are:

(A) Seventeen years of age and under;
(B) Eighteen through 39 years of age;
(C) Forty through 64 years of age; and
(D) Sixty-five years of age and older;

(vi) *Age of children.* The percentages of children in such families who are:

(A) Five years of age and under;
(B) Six through 13 years of age; and
(C) Fourteen through 17 years of age.

(vii) *Race or national origin.* The percentages of the persons in such families who are:

(A) White (non-Hispanic);
(B) Black (non-Hispanic);
(c) Hispanic;
(D) American Indian or Alaska Native; and
(E) Asian or Pacific Islands.

(3) *Characteristics of special homeless populations.* For the total number of persons referred to in paragraphs (a) (1) and (2) of this section, the CHAP must indicate the percentages who are—

(i) Physically handicapped;
(ii) Developmentally disabled;
(iii) Severely mentally ill;
(iv) Abusers of alcohol or drugs;
(v) Veterans;
(vi) Battered spouses;
(vii) Runaway or abandoned children; and
(viii) Employed

(c) *Characteristics of at-risk populations.* The jurisdiction's assessment of the population(s) at risk of becoming homeless must include, at a minimum, those individuals and families who have a high probability, or who are in imminent danger of becoming homeless (e.g., such as individuals who may become homeless after being released from a mental or penal institution, or from a substance abuse facility), or who have a history of being homeless. A quantitative assessment is not required of persons at imminent danger or having a high probability of becoming homeless or other persons or groups that the jurisdiction identifies as being at risk of becoming homeless. Estimates of the at-risk population(s) may be separately provided, if a description of the methodology(ies) used to generate the estimate is described. Persons or groups identified as being at risk of becoming homeless must be addressed in the strategy for preventing homelessness under § 90.23(a)(4).

§ 90.22 Description of facilities for the homeless.

(a) *Information on individual shelters.* The description of existing shelter facilities referred to in § 90.20(b)(1) must include all the facilities in the CHAP jurisdiction, categorized on the basis of the type of shelter it provides (such as emergency shelter, transitional housing, or permanent housing for the handicapped homeless), and for each such facility include the following information:

(1) The name of the facility;
(2) The address of the facility (unless confidential);
(3) Overnight sleeping capacity, broken down by beds, mattresses, or spaces;
(4) Homeless occupancy in the facility on the last Thursday of January of each year;
(5) Clientele served, such as single men and women, single children, single-parent families, two-parent families, and families without children;
(6) Services provided at the facility;
(7) If applicable, months the facility is open, hours of operation, and duration-of-stay policies;
(8) Plans for increasing the overnight sleeping capacity of the facility, if any;
(9) Such other information as the CHAP jurisdiction deems appropriate;

(b) *Overall tabulations.* In addition, the CHAP jurisdiction must include the following:

(1) An overall tabulation of the overnight sleeping capacity of existing shelters providing emergency, transitional, and permanent housing for handicapped homeless; and
(2) An overall tabulation of the number of proposed shelters and their projected overnight sleeping capacity.

(c) In preparing the formula cities portion of its CHAP, a State may elect to provide only the information specified under paragraphs (b) (1) and (2) of this section, and omit altogether the information specified under paragraph (a) of this section.

§ 90.23 Needs/resources strategy.

(a) *Types of homeless strategies.* In developing the needs/resources strategy referred to in § 90.20(c), a CHAP jurisdiction must provide the information specified under paragraphs (b) (1) and (2) of this section, as appropriate, for each of the following strategies:

(1) A strategy for responding to the short-term shelter and service needs of the homeless population;
(2) A strategy for assisting various homeless populations to make the transition to indpendent living;
(3) A strategy for providing housing and supportive services for those portions of the homeless population that are not capable of achieving independent living; and
(4) A strategy for preventing and eliminating homelessness.

(b) *Elements of strategy.* (1) For each of the strategies referred to in paragraphs (a) (1), (2), and (3) of this section, the following information must be provided:

(i) An identification of the need for additional facilities and services for the overall homeless population, and for special populations of the homeless (including, as appropriate, those referred to in § 90.21(b) (1), (2) and (3); and

(ii) An action plan containing goals, objectives, and timetables for addressing the need for additional facilities and services through the use of assistance under the authorities of Title IV of the Act, other assistance under the Stewart B. McKinney Homeless Assistance Act, other Federal, State, local, and private-sector assistance, and effective coordination of public- and private-sector resources.

(2) For the homeless prevention strategy referred to in paragraph (a)(4) of this section, the following information must be provided:

(i) An identification of the underlying causes of homelessness for specific segments of the homeless population including, as appropriate, those referenced in § 90.21(b) (1), (2) and (3);

(ii) An action plan containing goals and objectives for preventing and eliminating homelessness through the use of assistance under the authorities of Title IV of the Act, other assistance unde the Stewart B. McKinney Homeless Assistance Act and other Federal, State, local, and private-sector assistance, and effective coordination of public- and private-sector resources; and

(iii) An identification of an on-going process for evaluating the effectiveness of the jurisdiction's assessment of homeless needs, implementation of programs and policies addressing those needs and efforts to coordinate effectively public- and private-sector assistance for the homeless.

5. In § 90.40, paragraph (a) would be revised to read as follows:

§ 90.40 Plan performance.

(a) *Performance reports.* Each jurisdiction that has an approved CHAP must conduct an annual review of its progress in carrying out its CHAP,

including its progress in carrying out the goals, objectives, and timetables identified in the action plan for each of the strategies referred to in § 90.23(a). The jurisdiction must report the results of its review to HUD no later than May 31 of each year. The reporting period must cover the 12-month period ending with April 30 of the year in which the report is due.

* * * * *

Dated: February 20, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90-5713 Filed 3-12-90; 8:45 am]

BILLING CODE 4210-32-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-91; RM-7108]

Radio Broadcasting Services; Crestview, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Crestview Broadcasting Company, Inc., licensee of Station WAAZ(FM), Channel 284C2, Crestview, Florida, proposing the substitution of Channel 284C1 for Channel 284C2 at Crestview and modification of the station's license to specify operation on the higher class co-channel. A site restriction of 21.9 kilometers (13.6 miles) south of the city is required, at coordinates 30-33-58 and 86-33-17.

DATES: Comments must be filed on or before April 27, 1990, and reply comments on or before May 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James T. Whittaker, President, Crestview Broadcasting Co., Inc., P.O. Box 267, Crestview, Florida 32536 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-91, adopted February 22, 1990, and released March 7, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Commissions Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-5623 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-174]

Radio Broadcasting Services; Falls City, Nebraska, Red Oak, IA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; further notice.

SUMMARY: The Commission requests further comments on the Commission-initiated proposal to substitute Channel 237C3 for Channel 237A at Red Oak, Iowa, and modify the license of Station KOAK-FM accordingly. Because of the inadvertent removal of unoccupied and unapplied for Channel 237A at Falls City, Nebraska, from the Commission's engineering data base, the staff was unaware of a conflict between the two allotments. Therefore, we request comments on the substitution of Channel 267A for Channel 237A at Falls City, Nebraska, to resolve the conflict. Channel 267A can be allotted to Falls City in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 40-03-39 and West Longitude 95-36-06.

DATES: Comments must be filed on or before April 27, 1990, and reply comments on or before May 14, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David Jennings, Vice President and General Manager, Montgomery County Broadcasting Co., Inc., Station KOAK-FM, P.O. Box 465, Red Oak, Iowa 51566.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rule Making, MM Docket No. 89-174, adopted February 22, 1990, and released March 7, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-5624 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 90-100; FCC 90-84]

Amateur Service Rules to Relocate the Novice and Technician Operator Class Frequency Segment Within the Amateur Service 80 Meter Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the amateur service rules to relocate Novice and Technician Operator Class control operator privileges in the 80 meter amateur service band (3500–3750 kHz). The proposal is necessary to reduce apparent interference to United States amateur stations, using telegraphy, from Canadian stations, using telephony. The proposed rule amendment would provide beginning amateur operators a good communications environment in which to polish their telegraphy skills.

DATES: Comments due on or before June 15, 1990. Reply comments due on or before July 13, 1990.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, adopted February 26, 1990, and released March 7, 1990. The complete text of this Notice of Proposed Rule Making, including the proposed rule amendment, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239) 1919 M Street, NW., Washington, DC. The complete text of this Notice of Proposed Rule Making, including the proposed rule amendment, may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. The proposal to relocate Novice and Technician Operator Class control operator privileges in the 80 meter service band (3500–3750 kHz) responds to a petition for rule making (RM–6594) filed by Bradley Wells. An amateur station having a control operator holding a Novice or Technician Operator Class license is currently authorized to transmit on the frequency segment 3700–3750 kHz of the 80 meter amateur service band (Novice segment). The petitioner requested that the 80 meter Novice segment be relocated to 3675–3725 kHz.

2. It appears that there is interference in part of the frequency segment 3700–3750 kHz from Canadian amateur stations transmitting telephony. The interference impedes the progress of beginning operators who use the frequency segment to polish their telegraphy skills. The suggested relocation of the Novice segment to 3675–3725 kHz would reduce such interference.

3. Amateur operators are invited to submit comments with respect to the level of interference experienced in the current Novice segment. Comments are also invited with respect to whether the relocation, if authorized, would result in any interference to other amateur service operations.

4. The proposed rule is set forth at the end of this document.

5. This is a non-restricted notice and comment rule making proceeding. See § 1.1206(a) of the Commission's Rules, 47 CFR 1.1206(a), for rules governing permissible *ex parte* contacts.

6. In accordance with Section 605 of the Regulatory Flexibility Act of 1980, 5. U.S.C. 605, the Commission certifies that this rule would not, if promulgated, have a significant economic impact on a substantial number of small business entities because these entities may not use the amateur radio service for commercial radio communication. See 47 CFR 97.3(a)(4). Further the reallocation of the 80 meter Novice segment would not have any significant economic effect upon the manufacturers or distributors of amateur station equipment.

7. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public.

8. This Notice of Proposed Rule Making and the proposed rule amendment are issued under the authority of sections 4(i) and 303 (c) and (r) of Communication Act of 1934, as amended, 47 U.S.C. 154(i) and 303 (c) and (r).

9. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before June 15, 1990, and reply comments on or before July 13, 1990. The Commission will consider all relevant and timely comments before taking final action in the proceeding.

10. A copy of this Notice of Proposed Rule Making will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 97

Amateur Radio, Frequencies, Radio.

Proposed Rule

Part 97 of chapter I of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended, 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.301(e) is amended by revising the line entry for the 80 meter band in the table to read as follows:

§ 97.301 Authorized frequency bands.

* * * * *

(e) * * *

Wavelength band	ITU Region 1	ITU Region 2	ITU Region 3	Sharing requirements See § 97.303 paragraph—
HF	MHz	MHz	Mhz	
80m	3.675–3.725	3.675–3.725	3.675–3.725	(a)

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-5625 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 28

[Docket No. 46749; Notice No. 90-13]

RIN 2105-AA29

Enforcement of Nondiscrimination on the Basis of Handicap in Department of Transportation Conducted Programs

AGENCY: Department of Transportation.

ACTION: Notice; correction of comment closing date.

SUMMARY: On February 9, 1990 (55 FR 4633), the Department published a notice of proposed rulemaking (NPRM) Notice No. 90-3, to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by Federal Executive agencies, including the Department of Transportation. The notice of proposed rulemaking contained an incorrect comment closing date. This notice corrects the comment closing date.

DATES: Comments should be received by April 10, 1990.

ADDRESSES: Comments to the NPRM should be addressed to Docket Clerk, Docket 46769, Department of Transportation, Room 4107, 400 7th Street, SW., Washington, DC 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing acknowledgement of their comments should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date stamp and sign the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 7th Street, SW., Washington, DC 20590. 202/366-9306. Hearing impaired persons may contact Mr. Ashby by using TDD 202/755-7687.

SUPPLEMENTARY INFORMATION: When the Department published the NPRM on this subject on February 9, 1990 (55 FR 4633), the Department established a 120-day comment period, which would expire on June 11, 1990. This was an inadvertent error. In litigation surrounding the NPRM, the Department had committed to a 60-day comment period in order to expedite the rulemaking.

To correct this error, and consistent with the Department's agreement in the litigation, the Department is revising the comment period to be 60 days. The revised comment period will end on April 10, 1990. We regret any inconvenience which this revision may cause to persons interested in commenting on the NPRM. As with all comment periods on DOT NPRMs, late-filed comments will be considered to the extent practicable.

Issued this 7th Day of March, 1990, at Washington, DC.

Phillip D. Brady,

General Counsel.

[FR Doc. 90-5618 Filed 3-12-90; 8:45 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 55, No. 49
Tuesday, March 13, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

VISTA Guidelines; Final Notice

AGENCY: Action.

ACTION: Amendment to final notice of VISTA guidelines.

SUMMARY: On July 31, 1985, ACTION published in the **Federal Register** a Final Notice of VISTA Guidelines under which the VISTA program operates. This Amendment incorporates new language required under Public Law 101–204, enacted December 7, 1989, which amended Title I, part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113).

DATES: This Amendment to the Final Notice of VISTA Guidelines is effective immediately.

FOR FURTHER INFORMATION CONTACT: Patricia A. E. Rodgers, Assistant Director of VISTA and Student Community Service Programs, ACTION, 1100 Vermont Avenue, NW., Suite 8100, Washington, DC 20525, (202) 634–9445.

SUPPLEMENTARY INFORMATION: The Final Notice of VISTA Guidelines, as published in the **Federal Register**, July 31, 1985, set forth the programmatic direction of the VISTA program, selection criteria for VISTA sponsors and projects, and VISTA project approval procedures. The 1989 amendments to the Domestic Volunteer Service Act of 1973 (Pub. L. 93–113, as amended) added a new section 110 to Title I, part A of the Act. That section (42 USC 4960) requires that any regulation or guideline issued for the VISTA program contain the verbatim language of each of subsections (a) through (e) of section 110.

Accordingly, part III B of the Final Notice of VISTA Guidelines—Project Approval Process for Existing VISTA Sponsors—is revised to incorporate new section 3 which incorporates that verbatim language and reads as follows:

3. Applications for Assistance by Previous Recipients.

(a) Duration.—The Director shall not deny assistance under this part to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has previously received under this part.

(b) Consideration of Application.—The Director shall consider each application for the renewal of assistance under this part to any project or program on an individualized, case-by-case basis, taking into account—

(1) The extent to which the sponsoring organization has made good faith efforts to achieve the goals agreed on in the application of such project or program; and

(2) Any extenuating circumstance beyond the control of the sponsoring organization that may have prevented, delayed, or otherwise impaired the achievement of such goals.

(c) New Project or Program.—The Director shall consider each application for assistance under this part for a new project or program, that is submitted by a public or private nonprofit organization that has previously received such assistance (so long as such new project or program is clearly distinct from activities for which the organization has previously received such assistance), on an equal basis with all other applications for such assistance and without regard for the fact that the organization has previously received such assistance.

(d) Renewal of Assistance.—With respect to any consideration that relates to the duration of assistance under this part and that is applied by the Director in the case of a request for a renewal of assistance under this part, the Director may not apply any such consideration against any entity that is—

(1) Functioning as an intermediary between the Director and organizations requesting such renewal and ultimately receiving such assistance; and

(2) Utilized by such organizations—

(A) to prepare and submit applications for such assistance to the Director; and

(B) to perform other administrative functions and services associated with applying for and receiving such assistance.

(e) Eligibility.—All eligible public and private nonprofit organizations shall be able to apply for assistance under this part.

Authority: 42 U.S.C. 4960.

Signed at Washington, DC this fifth day of March, 1990.

Jane A. Kenny,

Director, ACTION.

[FR Doc. 90–5617 Filed 3–12–90; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

March 9, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Revision

- Food and Nutrition Service.

7 CFR part 225—Reporting/Recordkeeping (Summer Food Service Program for Children).

FNS 19–1, 19–2, 80, 81, 81–1, 189 and 418.

Recordkeeping; On occasion; Monthly; Quarterly.

State or local governments; Non-profit institutions; Small businesses or organizations; 31,254 responses; 127,912 hours; not applicable under 3504(h).

Marian Stroud (703) 756–3598.

• Farmers Home Administration.

7 CFR 1942–A, Community Facility Loans. 440–11, 24; 442–2,3,7,20,21,22,28,30,46; 1942–8,9,19,47.

Recordkeeping; On occasion; Quarterly; Annually.

State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 104,211 responses; 231,616 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736.

• Farmers Home Administration

7 CFR 1944–E, Rural Rental and Rural Cooperative Housing Policies, Procedures and Authorizations.

FmHA 1944–7, –33, –34, –35, –38.

On occasion.

State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 21,945 responses; 140,175 hours; not applicable under 3504(h).

Jack Holston (202) 382–9736.

New Collection

• Forest Service.

Baseline and Trend Information on Wilderness Use and Users.

One time collection.

Individuals or households; 1,450 responses; 603 hours; not applicable under 3504(h).

Dr. Alan E. Watson (406) 721–5694.

• Food and Nutrition Service.

Special Supplemental Food Program for Women, Infants and Children (WIC): Food Cost Containment Requirements.

On occasion.

Individuals or households; State or local governments; Businesses or other for-profit; 28 responses; 280 hours; not applicable under 3504(h).

Barbara L. Jendrysik (703) 756–3710.

Donald E. Hulcher,

Acting Departmental Clearance Officer.

[FR Doc. 90–5710 Filed 3–12–90; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Revision to White Stallion Draft Environmental Impact Statement; Bitterroot National Forest, Ravalli County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to revise a draft environmental impact statement.

SUMMARY: The Forest Service will revise the White Stallion Draft Environmental Impact Statement (DEIS) that was available to the public on April 21, 1989 (54 FR 16161). Initially, the Forest Service planned to supplement the DEIS because of new information regarding the purchase of adjacent private lands and the harvest of commercial timber from these lands in the next five years. (**Federal Register**, August 23, 1989 [54 FR 35018]). Subsequently, public comment to the DEIS raised the issue of clearcutting and the need to look at alternative silvicultural treatments. In addition, as environmental analyses proceeded, the modeling of sediment in relation to timber harvesting and associated access road construction was refined primarily by using actual road survey data. This refined analysis provided different data than that given in the DEIS. With all the reasons listed above, the Forest Service has determined that a revised DEIS will be more meaningful for public review than the supplement to the DEIS.

DATES: Public comments concerning the revision and the scope of the analysis should be submitted by March 30, 1990.

ADDRESSES: Send written comments to District Ranger, Darby Ranger District, P.O. Box 266, Darby, MT 59829.

FOR FURTHER INFORMATION CONTACT: Questions about the revision to the White Stallion DEIS should be directed to Tim Trotter, Darby Ranger District, Phone: (406) 821–3913.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to implement a range of timber management activities in the White Stallion area. These management activities may include timber harvest, road construction and reconstruction, insect and disease management, and road management.

Management activities under consideration would occur in an area encompassing approximately 8,300 acres of multi-ownership lands in the Sleeping Child drainage. Of this total, approximately 7,400 acres are National Forest System lands. A portion of the assessment area being considered for harvest and roading is within the Sleeping Child roadless area (X1074).

One of the issues that the revised DEIS will address is the environmental effects of accelerated removal of timber and associated access road construction on adjacent private lands to the proposed action in the White Stallion DEIS. The private lands are located within the area of the White Stallion DEIS in secs. 1, 2, and 11, T. 3 N., R. 19 W. Approximately 800 acres of this private land is within the Sleeping Child roadless area (X1074).

The revised DEIS will also address the issue of clearcutting in the White Stallion area. The public will be given the opportunity to formally comment on alternative silvicultural treatments.

Public participation is welcome during the analysis for the revision. The Forest Service is seeking information and comments from Federal, State, local agencies and other individuals or organizations who may be interested in or affected by the revision.

Public participation has been ongoing throughout the analysis process. Issues identified by the public have been incorporated into the current analysis, where appropriate, and will be disclosed in the revised DEIS.

The revised DEIS is expected to be available to the public in mid-April 1990. The comment period on the revised White Stallion DEIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. Comments received previously on the original Draft EIS will receive responses in the Final EIS, as will the comments to revised DEIS.

The responsible official, who is the Forest Supervisor, will consider the comments and responses to the draft EIS and revision; environmental consequences discussed in the FEIS; and applicable laws, regulations, and policies in making a decision regarding the White Stallion proposal.

The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision will be subject to review under applicable Forest Service Regulations.

Dated: February 28, 1990.

Bertha Gillam,

Forest Supervisor, Bitterroot National Forest.

[FR Doc. 90–5733 Filed 3–12–90; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 900247–0047]

Foreign Availability Determination; Certain Array Processors

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of negative determination.

SUMMARY: Under the authority of the Export Administration Act of 1979, as amended (EAA), on December 28, 1989, the Deputy Assistant Secretary for Export Administration determined that foreign availability does not exist to the People's Republic of China (PRC) for

certain array processors controlled under ECCN 1565A of the Commodity Control List (CCL) (15 CFR 799.1, Supp 1). This determination will not affect current export controls.

FOR FURTHER INFORMATION CONTACT: Dr. Irwin M. Pikus, Director, Office of Foreign Availability, Room SB-097, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Sections 5(f) and 5(h) of the EAA require the Department of Commerce to review foreign availability allegations for items controlled for national security purposes. Part 791 of the Export Administration Regulations (15 CFR 768 *et seq.*) establishes the procedures and criteria for determining foreign availability. The Secretary of Commerce or his designee determines whether foreign availability exists within the meaning of the EAA. With limited exceptions, the Commerce Department may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available-in-fact to such countries from a foreign source in quantities sufficient to render the controls ineffective in meeting their purposes.

On September 29, 1989, the Office of Foreign Availability (OFA) initiated an assessment of availability to the PRC of 12 MFLOPS array processors with 1024-point FFT performance of 2.7 milliseconds. OFA initiated the assessment in response to a certification of foreign availability by the Computer Systems Technical Advisory Committee (CSTAC) pursuant to Section 5(h)(6) of the EAA. OFA conducted the assessment in consultation with the Departments of State and Defense and other interested government agencies.

After review of the completed assessment and consideration of OFA's recommendation and the views of other government agencies, on December 28, 1989, the Deputy Assistant Secretary for Export Administration determined that foreign availability does not exist of such commodities to the PRC within the meaning of the EAA. In accordance with EAA Section 5(h)(6), Commerce notified the CSTAC and Congress of this determination.

If OFA receives new evidence affecting this foreign availability determination, OFA may revaluate its assessment. Inquiries concerning the scope of this assessment should be directed to the Office of Foreign Availability at the above address.

Dated: March 7, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-5735 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-588-703]

Certain Internal-Combustion Industrial Forklifts From Japan; Termination in Part of Antidumping Duty Administration Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of termination in part of antidumping duty administrative review.

SUMMARY: On July 25, 1989, the Department of Commerce initiated an administrative review of the antidumping duty order on certain internal-combustion industrial forklifts from Japan. The Department has now determined to terminate in part that review.

Background

On July 25, 1989, the Department of Commerce published a notice of initiation of administrative review of the antidumping duty order on certain internal-combustion industrial forklifts from Japan (54 FR 30915). That notice stated that we would review Sumitomo-Yale Co., Ltd. (S.Y.) for the period November 24, 1987 through May 31, 1989. S.Y. subsequently withdrew its request for review on February 15, 1990. Although as a general rule a request should be withdrawn within 90 days after the date of publication of the notice of initiation of the review, in light of the contemporaneous circumvention inquiry, we found it reasonable to extend the time limit and consider the request. S.Y. explained that, because the Department requires that a request to initiate a review be made in the anniversary month of the case, it had to make its request without knowledge regarding the ultimate scope of the antidumping order. The inquiry had presented the possibility that the order might include component parts, in which case S.Y. could have faced a substantial antidumping duty liability. With the February 12, 1990 final negative determination in the anti-circumvention inquiry, S.Y. no longer had an interest in the review. As a result of the request for withdrawal and the circumstances noted above, the Department has determined to terminate in part that review.

EFFECTIVE DATE: March 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sean Kelley or Laurie Lucksinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION: This notice is in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: March 1, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-5736 Filed 3-12-90; 8:45 am]

BILLING CODE 3570-DS-M

Argonne National Laboratory et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 2841, U.S. Department Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket number: 89-200. *Applicant:* U.S. DOE/Argonne National Laboratory, Argonne, IL 60439. *Instrument:* Electron Microscope, Model JEM-2000FX/SEG. *Manufacturer:* JEOL, Japan. *Intended use:* See notice at 54 FR 34540, August 21, 1989. *Order date:* April 20, 1989.

Docket number: 89-202. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Electron Microscope, Model EM-002B. *Manufacturer:* Akashi Beam Technology, Japan. *Intended use:* See notice at 54 FR 34540, August 21, 1989. *Order date:* April 15, 1989.

Docket number: 89-205. *Applicant:* Metropolitan Hospital Center, New York, NY 10029. *Instrument:* Electron Microscope, Model H-7000. *Manufacturer:* Hitachi, Japan. *Intended use:* See notice at 54 FR 38423, September 18, 1989. *Order date:* February 29, 1989.

Docket number: 89-207. *Applicant:* University of Kansas, Lawrence, KS 66045. *Instrument:* Electron Microscope, Model JEM-1200EX. *Manufacturer:* JEOL Ltd., Japan. *Intended use:* See notice at 54 FR 38423, September 18, 1989. *Order date:* June 27, 1989.

Docket number: 89-209. *Applicant:* Case Western Reserve University, Cleveland, OH 44106. *Instrument:*

Electron Microscope, Model CM 20 with Accessories. *Manufacturer:* N.V. Philips, The Netherlands. *Intended use:* See notice at 54 FR 38423, September 18, 1989. *Order date:* February 15, 1989.

Docket number: 89–210. *Applicant:* University of California, San Francisco, CA 94143–0412. *Instrument:* Electron Microscope, Model EM 10CA. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* See notice at 54 FR 38423, September 18, 1989. *Order date:* June 2, 1989.

Docket number: 89–211. *Applicant:* Vanderbilt University, Nashville, TN 37232. *Instrument:* Electron Microscope, Model EM 900T. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* See notice at 54 FR 38423, September 18, 1989. *Order date:* May 30, 1989.

Docket number: 89–214. *Applicant:* Vanderbilt University, Nashville, TN 37232. *Instrument:* Electron Microscope, Model CM 20. *Manufacturer:* N.V. Philips, The Netherlands. *Intended use:* See notice at 54 FR 40158, September 29, 1989. *Order date:* March 29, 1989.

Docket number: 89–217. *Applicant:* Cleveland Clinic Foundation, Cleveland, OH 44195. *Instrument:* Electron Microscope, Model CM 12. *Manufacturer:* N.V. Philips, The Netherlands. *Intended use:* See notice at 54 FR 40158, September 29, 1989. *Order date:* July 12, 1989.

Docket number: 89–221. *Applicant:* Thomas Jefferson University, Philadelphia, PA 19107. *Instrument:* Electron Microscope, Model H–7000–3. *Manufacturer:* Nissei Sangyo America, Ltd., Japan. *Intended use:* See notice at 54 FR 40159, September 29, 1989. *Order date:* May 2, 1989.

Docket number: 89–225. *Applicant:* Research Triangle Institute, Research Triangle Park, NC 27709–2193. *Instrument:* Electron Microscope, Model H–7000. *Manufacturer:* Hitachi, Japan. *Intended use:* See notice at 54 FR 41322, October 6, 1989. *Order date:* May 11, 1989.

Docket number: 89–227. *Applicant:* University of San Diego, San Diego, CA 92210. *Instrument:* Electron Microscope, Model EM 900. *Manufacturer:* Carl Zeiss, Inc., West Germany. *Intended use:* See notice at 54 FR 41322, October 6, 1989. *Order date:* August 3, 1989.

Docket number: 89–232. *Applicant:* University of Akron, Akron, OH 44325. *Instrument:* Electron Microscope, Model JEM–1200EXII. *Manufacturer:* JEOL, Ltd., Japan. *Intended use:* See notice at 54 FR 41323, October 6, 1989. *Order date:* June 30, 1989.

Docket number: 89–240. *Applicant:* University of California, San Diego, La Jolla, CA 92023. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL, Japan. *Intended use:* See notice at 54 FR 47253, November 13, 1989. *Order date:* September 7, 1989.

Docket Number: 89–242. *Applicant:* Yale University, New Haven, CT 06510. *Instrument:* Electron Microscope, Model JEM–1200EX. *Manufacturer:* JEOL, Japan. *Intended use:* See notice at 54 FR 47253, November 13, 1989. *Order date:* July 7, 1989.

Docket Number: 89–243. *Applicant:* Cornell University, Ithaca, NY 14853–6401. *Instrument:* Electron Microscope, Model EM 902PC. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* See notice at 54 FR 47253, November 13, 1989. *Order date:* May 19, 1989.

Docket Number: 89–251. *Applicant:* Knox College, Galesburg, IL 61401. *Instrument:* Electron Microscope, Model JEM–100SX. *Manufacturer:* JEOL, Inc., Japan. *Intended use:* See notice at 54 FR 47702, November 16, 1989. *Order date:* August 16, 1989.

Docket Number: 89–257. *Applicant:* The Regents of the University of California at San Diego, La Jolla, CA 92093–0608. *Instrument:* Electron Microscope, Model JEM–2000FX. *Manufacturer:* JEOL Ltd., Japan. *Intended use:* See notice at 54 FR 53162, December 27, 1989. *Order date:* August 1, 1989.

Docket Number: 89–258. *Applicant:* Department of Veterans Affairs Medical Center, Kansas City, MO 64128. *Instrument:* Electron Microscope, Model JEM–1200EX/DP/DP. *Manufacturer:* JEOL, Ltd., Japan. *Intended use:* See notice at 54 FR 53163, December 27, 1989. *Order date:* August 29, 1989.

Docket Number: 89–264. *Applicant:* University of Maryland, College Park, MD 20742. *Instrument:* Electron Microscope, Model JEM–2000FX/SIP/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended use:* See 54 FR 1074, January 11, 1990. Order date: June 30, 1989.

Docket Number: 89–267. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Electron Microscope, Model JEM–1200EXII. *Manufacturer:* JOEL Ltd., Japan. *Intended use:* See 54 FR 1074, January 11, 1990. *Application received by commissioner of customs:* November 3, 1989.

Docket Number: 89–268. *Applicant:* University of Wisconsin, Oshkosh, WI 54901. *Instrument:* Electron Microscope, Model EM 10CA/G45 with Integrated Television System. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* See notice at 54 FR 1074, January 11, 1990. *Order date:* September 20, 1989.

Docket Number: 89–269. *Applicant:* State University of New York at Geneseo, Geneseo, NY 14454. *Instrument:* Electron Microscope, Model EM 900TFP/G54 with Components. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* See notice at 54 FR 1074, January 11, 1990. *Order date:* August 30, 1989.

Docket Number: 89–273. *Applicant:* Pennsylvania Hospital, Philadelphia, PA 19107. *Instrument:* Electron Microscope, Model CM–10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended use:* See notice at 54 FR 1702, January 18, 1990. *Order date:* September 11, 1989.

Comments: Non received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 90–5737 Filed 3–12–90; 8:45 am]

BILLING CODE 3510–DS–M

University of Texas et al., Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Room 2841, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC.

Docket number: 90–027. *Applicant:* University of Texas Southwestern Medical Center, 5323 Harry Hines, Blvd., Dallas, TX 75235–9072. *Instrument:* Electron Microscope, Model JEM–

1200EX/SEG. *Manufacturer:* JEOL Ltd., Japan. *Intended use:* The instrument will be used to study the ultrastructure of normal and pathological tissues from human and animal origins. The experiments to be conducted will include:

(a) Pathophysiological changes in heart, liver, lung, brain and skin in experimental animals, primarily rat and mouse.

(b) Examination of human surgical biopsy pathology.

(c) Examination of human skin, muscle and nerve biopsies and the quantitation of morphological changes.

In addition, the instrument will be used on a one-to-one basis in the training of medical graduate students, residents and fellows. *Application received by Commissioner of Customs:* February 13, 1990.

Docket number: 90-028. *Applicant:* Beth Israel Medical Center, First Avenue and 16th Street, New York, NY 10003. *Instrument:* Rapid Karyotyping Analysis System, Model Cytoscan RK 1. *Manufacturer:* Image Recognition Systems Inc., United Kingdom. *Intended use:* The instrument will be used for the analysis of banded chromosomes in experiments related to the examination of several cells from each human sample to establish the cytogenetic status of an individual. In addition, the intrument will be used for educational purposes in courses in prenatal cytogenetics, perinatal cytogenetics and cancer cytogenetics. *Application received by Commissioner of Customs:* January 12, 1990.

Docket number: 90-029. *Applicant:* University of Vermont, Department of CRC, MFU Building, Burlington, VT 05405. *Instrument:* Mass Spectrometer, Model VG SIRA SERIES II. *Manufacturer:* VG Isogas, United Kingdom. *Intended use:* The instrument will be used to quantify the amounts of stable isotopes of carbon, oxygen, hydrogen and nitrogen present in biological samples of human origin. The specific objectives of the investigations are elucidations of: (1) the effects of diabetes mellitus on muscle metabolism, (2) the influence of plasma amino acid levels on hypoglycemic episodes, (3) the effects of aging and exercise on muscle metabolism and (4) regulation of energy expenditure in humans by dietary and other physiological and pathological factors. *Application received by Commissioner of Customs:* February 15, 1990.

Docket number: 90-030. *Applicant:* Michigan State University, Department of Pediatrics/Human Development, B240 Life Sciences, East Lansing, MI 48824-1317. *Instrument:* Rapid Karyotyping Analysis System, Model Cytoscan RK 2. *Manufacturer:* Image Recognition Systems Inc., United Kingdom. *Intended use:* The instrument will be used for cancer diagnosis, prenatal diagnosis and diagnosis of birh defects due to chromosome abnormalities. *Application received by Commissioner of Customs:* February 15, 1990.

Docket number: 90-031. *Applicant:* St. Barnabas Medical Center, Old Short Hills Road, Livingston, NJ 07039. *Instrument:* Rapid Karyotyping Analysis System and Satellite Capture Station, Model Cytoscan RK 1 and SC. *Manufacturer:* Image Recognition Systems Inc., United Kingdom. *Intended use:* The instruments will be used to take images of chromosomes, automatically recognize each one and arrange them in proper sequence. Most of the work will involve prenatal diagnosis and the information obtained enables detection of genetic rearrangements of abnormalities that may cause malformation or mental retardation. *Application received by Commissioner of Customs:* February 15, 1990.

Docket number: 90-032. *Applicant:* Emory University Hospital, 1364 Clifton Road, N.E., Atlanta, GA 30322. *Instrument:* Electron Microscope, Model EM900. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* The instrument will be used for the study of components of the renal glomerulus including the glomerular basement membrane, the epithelial foot processes, the endothelial cells and the vascular system; examination of tissue ultrastructural and subcellular components to the kidney and ultrastructural observation in neoplastic diseases, gastrointestinal disease and pulmonary disease. The ultimate objective of each of these investigations will be the correlation of morphologic and ultrastructural findings with functional aberrations in human disease. *Application received by Commissioner of Customs:* February 20, 1990.

Docket number: 90-035. *Applicant:* University of California at Davis, Bodega Marine Laboratory, P.O. Box 247 Westside Road, Bodega Bay, CA 94923. *Instrument:* Electron Microscope, Model EM902 PC/ST/G45. *Manufacturer:* Carl Zeiss, West Germany. *Intended use:* The instrument will be used for (1) investigations on mechanisms of gamete activation, fertilization and early development; (2) studies of the relationships between cytoplasmic organization and metabolic processes; (3) research on structure/function relationships of extracellular matrices; (4) research into the endocrinological bases of growth, reproduction and acclimation of aquatic organisms. Each of these areas of research relies upon ultrastructural examinations and/or fine structural localizations of cellular constituents. *Application received by Commissioner of Customs:* February 22, 1990.

Docket number: 90-036. *Applicant:* Cornell University, Ithaca, NY 14853. *Instrument:* Mass Spectrometer, Model 252. Manufacturer: Finnigan MAT, West Germany. *Intended use:* The instrument will be used to determine the isotopic composition of elemental oxygen, carbon and nitrogen derived from biological fluids and tissues. The isotope ratios measured will be used to answer specific questions in vertebrate physiology. These include energy expenditure under a variety of conditions of health and disease, protein turnover by various tissue and total body water. *Application received by Commissioner of Customs:* February 22, 1990.

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 90-5738 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Natural Resource Damage Assessment; Los Angeles Harbor, Long Beach Harbor, Palos Verdes Shelf and Ocean Dump Sites

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of 60-day comment period.

SUMMARY: Notice is given that the draft document entitled "Damage Assessment Plan: Los Angeles/Long Beach Harbors, Palos Verdes Shelf, and Ocean Dump Sites" is available for public review and comment.

NOAA is a trustee for coastal and marine natural resources pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, the Federal Water Pollution Control Act of 1972 (FWPCA), subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.72-300.74 and Executive Order 12580.

In coordination with the U.S. Department of the Interior and the State of California (the Co-Trustees), NOAA is undertaking an assessment of suspected damages to the natural resources of the Los Angeles Harbor, the

Long Beach Harbor, the Palos Verdes Shelf and offshore ocean dump sites that have been exposed to hazardous substances. In particular, NOAA and its Co-Trustees suspect that the resources of these areas have been exposed to DDT (dichlorodipenyl-tricholorethane and its metabolites) and PCBs (all congeners of polychlorinated biphenyls) that have been released by certain industrial facilities. It is further suspected that this exposure has caused injury to these resources for which damages can and should be assessed.

NOAA is following the guidance of the Natural Resource Damage Assessment Regulations (the regulations) found at 43 CFR part 11 (1988), issued by the Department of the Interior. The procedure that NOAA intends to follow in conducting this damage assessment is substantially the same as that called for in these regulations. The public review of this draft damage assessment plan, announced by this notice, is parallel to that provided for in 43 CFR 11.32(c) of the regulations.

Interested members of the public are invited to request a copy of this draft document and NOAA's Preassessment Screen Determination issued on July 7, 1989, from the Southwest Office of NOAA General Counsel at the address given below. All written comments will be considered by NOAA's Authorized Official and the Co-Trustees and incorporated in the Report of Assessment issued at the conclusion of this damage assessment process.

DATES: Comments must be submitted on or before May 14, 1990.

FOR FURTHER INFORMATION CONTACT: Mark A. Eames, NOAA General Counsel Southwest, 300 S. Ferry St., Terminal Island, CA 90731, (213) 514–6182.

SUPPLEMENTARY INFORMATION: As a trustee for coastal and marine natural resources, NOAA is authorized by section 107(f) of CERCLA to act on the behalf of the public to recover damages for the injury, destruction or loss of such natural resources caused by the release of hazardous substances. Under this authority, NOAA issued a Preassessment Screen Determination on July 7, 1989, in which NOAA's Authorized Official conducted a preliminary review of existing and readily available information concerning the facts of this case and determined that a damage assessment could and should be done.

In coordination with the Co-Trustees, NOAA drafted plans for the first two phases of a damage assessment to determine the existence and nature of natural resource injuries in the first phase, and to quantify those injuries in phase two. The purpose of this plan is to ensure that the assessment is performed in a planned and systematic manner and that methodologies selected can be conducted at a reasonable cost. This notice invites comments on that document.

After the Injury Determination Phase is completed, NOAA and the Co-Trustees will draft a plan for the third phase of the Assessment Plan, the Damage Determination Phase. At that time, public review will again be solicited. Upon completion of the Damage Assessment in this case, a Restoration Plan will be adopted.

In this case, NOAA suspects that DDT and PCBs released into the Los Angeles/Long Beach Harbors, onto the Palos Verdes Shelf and at several ocean dump sites have injured coastal and marine resources in several ways. The edible flesh of fish typically caught by recreational and commercial fishermen in these areas of exposure carry levels of DDT and PCB high enough to present an unacceptable threat to the health of the public who consume those fish. In 1985 the California Department of Health Services issued an Interim Health Advisory advising against the consumption of contaminated fish taken from specific locations within the areas of exposure.

DDT and PCBs are also suspected to have caused adverse changes in the viability of certain species of marine wildlife that inhabit the areas of exposure. Studies indicate a pronounced decrease in the abundance and diversity of benthic organisms. Other studies suggest that certain species of fish suffer a reduced reproductive capacity due to exposure to DDT and/or PCBs. Some species of fish from the area display a propensity for fin rot. Marine birds such as the Brown Pelican, Bald Eagle and Peregrine Falcon have had higher rates of reproductive failure due to eggshell thinning though to be caused by exposure to DDT and/or PCBs. Marine mammals carry extremely high levels of DDT and PCB in their fatty tissues; however, any adverse effects from this contamination are not known at this time.

DDT and PCBs are persistent chemicals not subject to ready deterioration in the environment. They also tend to be magnified by transmittal up the food chain so that higher organisms such as birds and marine mammals concentrate these chemicals at levels as much as a million times greater than the concentration of DDT or PCBs in the marine sediments or water column. As a result of their persistence and bioaccumulation, DDT and PCBs released into the environment decades ago are suspected to present a continued threat to the environment today and into the future.

Once NOAA and the Co-Trustees have determined the nature and extent of natural resource injuries in this case according to the plan currently under review, they will investigate the feasibility and cost of restoring or replacing the injured natural resources, or acquiring equivalent resources. Additionally, the value of natural resource uses lost as a result of the injuries will be determined. Both restoration cost and the value of lost uses will be used to determine the amount of damages recoverable from the responsible parties.

Comments are being solicited to ensure that: Important resource concerns are not omitted from the assessment; the methodologies are given an independent review and appropriate methodologies are chosen for the assessment; and the costs of assessment are reasonable.

Dated: March 7, 1990.

Thomas A. Campbell,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 90–5703 Filed 3–12–90; 8:45 am]

BILLING CODE 3510–08–M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council and its Committees will hold public meetings on March 27–28, 1990, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC, to take final action on the Swordfish Fishery Management Plan (FMP) Amendment #1, and approve a public hearing draft of the Snapper/Grouper FMP Amendment #2 prohibiting the harvest or possession of jewfish. Other fishery management business also will be discussed.

A detailed agenda will be available to the public on or about March 28, 1990. For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (803) 571–4366.

Dated: March 6, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-5615 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council will hold a public meeting of its Red Drum Advisory Panel on March 26, 1990, from noon to 6 p.m., at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC. The Panel will review and provide comments to the South Atlantic Council regarding the public hearing draft of the Red Drum Fishery Management Plan.

A detailed agenda will be available to the public on or about March 16, 1990. For more information contact Carrie R. F. Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407, telephone: (803) 571-4366.

Dated: March 6, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-5616 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

[90-N-1]

Meeting

AGENCY: Commission on Minority Business Development.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Commission on Minority Business Development will be held on Thursday, March 22, 1990, at 10 a.m. in the Hearing Room of the Postal Rate Commission, 1333 H Street, NW., Washington, DC.

The Commission was established by Public Law 100-656, for purposes of reviewing and assessing federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in law or regulation as may be necessary to further the growth and development of minority businesses.

The meeting agenda will include: 1. Swearing-in and orientation for new Commission members; 2. Overview of Commission Mandate; 3. Review of proposed schedule of public hearings; 4. Other new business. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Susan Gonzales, (202) 523-0030, Commission on Minority Business Development, 730 Jackson Place, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Summary of minutes of the meeting will be available for public inspection and reproduction during regular working hours at 730 Jackson Place, NW., Washington, DC 20006, approximately 30 days following the meeting.

Dated: March 9, 1990.

Joshua I. Smith,

Chairman.

[FR Doc. 90-5836 Filed 3-12-90; 8:45 am]

BILLING CODE 4738-71-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exemption of "Bolducs" in Category 229 from Visa and Quota Requirements

March 7, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of customs exempting certain products from visa and quota requirements.

EFFECTIVE DATE: March 14, 1990.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Tariff Schedules of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 7, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on March 14, 1990, you are directed to exempt shipments of "bolducs" (fabrics consisting of warp without weft assembled by means of an adhesive) in HTS number 5806.40.0000 in Category 229 exported from all countries on and after March 14, 1990 from existing visa and quota requirements established under the terms of current visa arrangements and bilateral textile agreements that are in place with the United States Government.

No further charges shall be made to HTS number 5806.40.0000 in Category 229.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-5734 Filed 3-12-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Production Capacity Survey (Test Replacement for the DoD Industrial Preparedness Program Production Planning Schedule); DD Form 1519 Test; and OMB Control Number 0704-0294.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 1 Hour.

Frequency of Response: Biennially.

Number of Respondents: 7,000.

Annual Burden Hours: 7,000.

Annual Responses: 7,000.

Needs and Uses: This request concerns information collection requirements that will be used by the Department of the Army officials to record production capabilities and

physical properties of privately owned facilities. The data obtained will be used to plan effective utilization of the plant during mobilization. The successful completion of this test will potentially result in a restructure of the existing DD Form 1519.

Affected Public: Businesses or other for-profit.

Frequency: Continuing.

Respondent's Obligation: Voluntary; Required to obtain or retain a benefit.

OMB Desk Officer: Ms. Eyvette, R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: March 8, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-5715 Filed 3-12-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 8, 1990.

The USAF Scientific Advisory Board Airlift Cross-Matrix Panel will meet on 28 Mar 90 from 8 a.m. to 5 p.m. at Scott AFB, IL.

The purpose of this meeting will be to provide an orientation to the new panel members on the policies and programs of the Military Airlift Command and to review the status of previous initiatives that have been implemented based on Scientific Advisory Board recommendations. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Pasty J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-5709 Filed 3-12-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ90-3-1-000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

March 6, 1990.

Take notice that on March 1, 1990, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Twentieth Revised Sheet No. 4

The tariff sheet is proposed to become effective April 1, 1990. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers. Alabama-Tennessee further asserts that the rates set forth in Twentieth Revised Sheet No. 4 are subject to change as a result of the evolving situation in Docket No. RP89-251-000, which is scheduled to become effective April 1, 1990.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5652 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-75-007; RP89-213-005, RP89-223-003]

Black Marlin Pipeline Co.; Filing

March 6, 1990.

Take notice that on February 28, 1990, Black Marlin Pipeline Company (Black Marlin) tendered for filing to become a part of Black Marlin's FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Primary Tariff Sheets

Original Volume No. 1

Substitute 2nd Revised Sheet No. 4
Substitute 1st Revised Sheet No. 101
Substitute Original Sheet No. 101A
Substitute 3rd Revised Sheet No. 102
Original Sheet No. 105A
3rd Revised Sheet No. 106
2nd Revised Sheet No. 111
Original Sheet No. 111A
Substitute 1st Revised Sheet No. 114
Substitute Original Sheet No. 114A
5th Revised Sheet No. 118
Original Sheet No. 118A
5th Revised Sheet No. 123
Original Sheet No. 123A
Substitute 2nd Revised Sheet No. 200
Substitute 1st Revised Sheet No. 201
Substitute Original Sheet No. 224
Original Sheet No. 224A
Substitute 3rd Revised Sheet No. 225-299

Alternate Tariff Sheet

Original Volume No. 1

Alternative Substitute 2nd Revised Sheet No. 4

Black Marlin states that it filed on August 31, 1989, tariff changes to effect a rate increase in this proceeding under section 4 of the Natural Gas Act; that by Order dated September 29, 1989, the Commission accepted for filing and suspended the August 31, 1989 section 4(e) filing to become effective March 1, 1990, subject to refund and subject to the conditions described in the order; that a prehearing conference and settlement conference were held on January 11, 1990, at which time a settlement in principle was reached; and a Stipulation and Agreement of settlement was filed on February 23, 1990.

The Primary Tariff Sheets, listed above, reflect the resultant rates and tariff modifications as reflected in the Stipulation and Agreement.

Black Marlin states that it is moving, in accordance with § 154.67(a) of the Regulations, to place the proposed Primary Tariff Sheets into effect March 1, 1990 on the condition that, should the Stipulation and Agreement not be approved by the Commission, Black Marlin reserves the right to move into effect the rates set forth on Alternate Substitute Second Revised Sheet No. 4, to be effective on a prospective basis.

Black Marlin states that Alternative Substitute Second Revised Sheet No. 4 complies with Ordering Paragraph (C) of the Commission's September 29, 1989 order to reduce rates to reflect the elimination of the costs of facilities not in service by January 31, 1990, and is being filed for acceptance solely in the event the Commission is unable to accept Black Marlin's Primary Tariff Sheets under the condition and reservation stated above.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5663 Filed 3-12-90 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-30-032 et al.]

Colorado Interstate Gas Co. et al.; Filing of Pipeline Refund Reports

March 6, 1990.

Take notice that the pipelines listed below have submitted to the Commission for filing proposed refund reports.

Filing Date	Company Name	Docket No.
2/2/90	Colorado Interstate Gas Company.	RP87-30-032
2/8/90	Columbia Gulf Transmission Corp.	RP86-167-017
2/15/90	Columbia Gas Transmission Corp.	RP86-168-020
2/21/90	ANR Pipeline Company.	RP86-169-015
2/23/90	Panhandle Eastern Pipe Line Co.	TM90-7-28-004
2/23/90	Trunkline Gas Company.	TM90-4-30-004

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before March 27, 1990. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5657 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-893-000]

Colorado Interstate Gas Co. Request Under Blanket Authorization

March 6, 1990.

Take notice that on March 2, 1990, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-893-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Anadarko Trading Corporation (Anadarko), a marketer, under the blanket certificate issued in Docket No. CP86-589, et al., pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG states that pursuant to a transportation service agreement dated January 1, 1990, under its Rate Schedule TI-1, it proposes to transport up to 25,000 Mcf per day of natural gas for Anadarko. CIG states that it would transport the gas from existing points of receipt on its system in Kansas and Oklahoma, and would redeliver the gas, less fuel gas and lost and unaccounted-for gas, for the account of Anadarko in Beaver County, Oklahoma.

CIG advises that service under § 284.223(a) commenced January 18, 1990, as reported in Docket No. ST90-1932-000. CIG further advises that it would transport 10,000 Mcf on an average day and 3,650 MMcf annually.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5661 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-32-000]

Colorado Interstate Gas Co., Quarterly Purchased Gas Adjustment

March 6, 1990.

On March 1, 1990, Colorado Interstate Gas Company ("CIG") filed the following proposed tariff sheets to reflect a quarterly purchased gas adjustment ("PGA"):

First Revised Second Substitute First Revised Sheet No. 7.1
First Revised Second Substitute First Revised Sheet No. 7.2
First Revised Second Substitute First Revised Sheet No. 8.1
First Revised Second Substitute First Revised Sheet No. 8.2

CIG requests that these propsed tariff sheets be made effective on April 1, 1990.

The tariff rates underlying First Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 reflect a 1 cent decrease in the Demand-1 rate, and a 0.01 cent decrease in the Demand-2 rate. This filing also reflects a 0.56 cent decrease in the commodity rate for the G-1, P-1, SG-1, H-1, F-1 and PS-1 Rate Schedules. The proposed rates compare with those filed by CIG on December 1, 1989, in Docket No. TQ90-1-32, which rates were accepted by Commission Letter Order dated December 29, 1989, to become effective on January 1, 1990.

CIG states that copies of this filing have been served upon CIG's jurisdictional customers and public bodies, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5662 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-8-21-000 and TM90-7-21-001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 6, 1990.

Take notice that Columbia Gas Transmission Corporation (Columbia) on February, 1990, tendered for filing the following proposed changes to its FERC Gas Tariff:

Original Volume No. 1

Effective February 1, 1990

Substitute First Revised Sheet No. 16B9
Substitute First Revised Sheet No. 16B12

First Revised Volume No. 1

Effective March 1, 1990

First Revised Sheet Nos. 30A1 through 30A5
First Revised Sheet Nos. 30B1 through 30B5
First Revised Sheet Nos. 30C1 through 30C5
First Revised Sheet Nos. 30D1 through 30D5
First Revised Sheet Nos. 30E1 through 30E5
First Revised Sheet Nos. 30F1 through 30F5
First Revised Sheet Nos. 30G1 through 30G5

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket Nos. RP88-187, *et al.*, in which Columbia established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to modify its earlier filings in Docket No. TM90-7-21 to permit it to flow through revised take-or-pay and contract reformation costs from (i) Texas Eastern Transmission Corporation (Texas Eastern) pursuant to a filing made on January 22, 1990, which was accepted by Commission order issued on February 21, 1990, in Docket No. TM90-3-17; (ii) Texas Eastern pursuant to a filing made on January 22, 1990, which was accepted by Commission order issued on February 21, 1990 in Docket No. RP90-73; and (iii) Texas Gas Transmission Corporation (Texas Gas) pursuant to a filing made on January 16, 1990, in Docket No. TM90-3-18, which was accepted by Commission order issued on February 15, 1990. The remaining tariff sheets reflect the corrected allocation factors for Texas Gas Transmission Corporation's Docket No. RP90-58 reflected in Columbia's January 31, 1990 filing, effective February 1, 1990 in Docket No. TM90-7-21. Also by this filing, Columbia is removing from its tariff sheets certain take-or-pay costs billed to Columbia by Tennessee Gas Pipeline Company (Tennessee) pursuant to Tennessee's settlement in Docket No. RP85-178, *et al.*, as these costs have been fully recovered.

Copies of the filing were served upon Columbia's jurisdictional customers, interested state commissions, and upon each person designated on the official service list compiled by the Commission's Secretary in Docket Nos. RP88-187, RP89-181, RP89-214, RP89-229, TM89-3-21, TM89-4-21, TM89-5-21, TM89-7-21, RP90-26, TM90-2-21, TM90-5-21, TM90-6-21 and TM90-7-21.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5658 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. T090-3-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

March 6, 1990.

Take notice that on March 1, 1990, East Tennessee Natural Gas Company (East Tennessee) submitted for filing ten copies of Fifty-Sixth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1990.

The purpose of the revisions to Fifty-Sixth Revised Sheet No. 4 is to reflect a Purchased Gas Adjustment (PGA) to East Tennessee's Rates for the quarterly period of April 1990-June 1990, pursuant to § 22.2 of the General Terms and Conditions of East Tennessee's Tariff.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5649 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-3-33]

El Paso Natural Gas Co.; Tariff Filing

March 6, 1990.

Take notice that on March 1, 1990, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in accordance with sections 21 and 22, Take-or-Pay Buyout and Buydown Cost Recovery, of El Paso Natural Gas Company's ("El Paso") First Revised Volume No. 1 and Original Volume No. 1-A FERC Gas Tariffs, respectively, El Paso tendered for filing and acceptance certain tariff sheets that reflect a revision to the Monthly Direct Charge and Throughput Surcharge.

El Paso states that the filing reflects that no additions have been made to the amount presently being amortized, as set forth in El Paso's filing made February 16, 1990 at Docket No. RP90-81-000. The only adjustments proposed by the filing are for adjustments to El Paso's Monthly Direct Charge and Throughput Surcharge (decrease from $0.3157 per dth to $0.3089 per dth) for the estimated interest for the six month period commencing February 1, 1990 and the difference between the actual accrued interest and the previously estimated interest for the period August 1, 1989 through January 31, 1990 utilizing the appropriate interest rate pursuant to § 154.67(c) (2) (iii) of the Commission's Regulations. Additionally, El Paso has reduced the actual accrued interest for

the period December 1, 1988 through July 31, 1989 to give effect to credit accounting adjustments restated to the months in which settlement payment was made or included in rates, whichever is later. El Paso states that included in the credit adjustments are the elimination of settlement agreements or portions of settlement agreements which were agreed to by El Paso during the technical conference held July 26, 1989 at Docket Nos. RP88-184-000 and RP89-132-000.

El Paso respectfully requested that the tendered tariff sheets be accepted and permitted to become effective on April 1, 1990, which is not less than thirty (30) days after the date of filing.

Copies of the filing were served upon all interestate pipeline system sales customers and shippers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5650 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-33-000]

El Paso Natural Gas Co., Proposed Change in Rates

March 6, 1990.

Take notice that on March 1, 1990, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, a notice of a Quarterly Adjustment in Rates, effective April 1, 1990, for jurisdictional gas service rendered to sales customers served by El Paso's interstate gas transmission system under rate schedules affected by and subject to section 19, Purchased Gas Cost Adjustment Provision ("PGA"), of the General Terms and Conditions in El Paso's FERC Gas Tariff, First Revised Volume No. 1.

El Paso states that it has tendered certain tariff sheets in compliance with its PGA provisions which reflect a net increase of $0.0974 per dth above those rates placed in effect on January 1, 1990, at Docket No. TQ90-2-33-000. This increase results in a Current Adjustment of $0.0974 per dth.

As a transitional measure prior to implementation of its direct billing of the balance of Account 191, El Paso requested that the Commission grant waiver of the surcharge adjustment portion of section 19.4 of section 19, Purchased Gas Cost Adjustment Provision of the General Terms and Conditions in its FERC Gas Tariff, First Revised Voluem No. 1, so as to permit suspension of collection of Account 191 unrecovered purchased gas costs through the surcharge until the Commission issues an order to reaffirm El Paso's right to direct bill its Account 191 balance. In the alternative, El Paso requested that waiver be granted until the time of its next scheduled Annual PGA filing, which will become effective July 1, 1990. El Paso also stated that it retains the right to reinstate collection of the surcharge if the GIC certificate is not accepted by El Paso.

El Paso states that in the event the Commission denies the request for waiver of its Account 191 surcharge, it tendered certain tariff sheets in compliance with its PGA provisions which reflect a net increase of $4.4668 per dth above those rates placed in effect on January 1, 1990 at Docket No. TQ90-2-33-000. Such net increase is comprised of a Current Adjustment of $0.0974 per dth and a Surcharge Adjustment of $4.3694 per dth to be effective April 1, 1990.

Copies of the filing were served upon all of El Paso's interstate pipeline system sales customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5659 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-7-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

March 6, 1990.

Take notice that on March 1, 1990, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission Thirty-Fourth Revised Sheet No. 7 in its FERC Gas Tariff, First Revised Volume No. 1, containing changes in rates for effectiveness on March 1, 1990.

According to Granite State, the reduced rates on Thirty-Fourth Revised Sheet No. 7 result from lower projected gas costs for the remainder of the first quarter of 1990. Granite State states that the lower gas costs are attributable principally to reduction in the projected costs of imported gas purchased from Boundary Gas, Inc. and Shell Canada, Limited. According to Granite State, the revised rates also reflect a reduction in the cost of purchases from Algonquin Gas Transmission Company which is effective March 1, 1990.

It is stated that the proposed rate changes are applicable to Granite State's wholesale sales to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 13, 1990. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5653 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-45-001]

Inter-City Minnesota, Pipelines Ltd., Inc.; Tariff Filing

March 6, 1990.

Take notice that on March 1, 1990, Inter-City Minnesota, Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing a revised tariff sheet to Original Volume 1 of its FERC Gas Tariff to be effective March 1, 1990.

Original Volume No. 1

Substitute Thirty-Eight Revised Sheet No. 4

This revised tariff sheet is a correction to an out of cycle PGA filed February 13, 1990. Inter-City states that this correction does not affect the rate reflected on the February 13, 1990 rate sheet.

Inter-City states that copies of the filing have been mailed to all of its customers and the affected state regulatory commission.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5654 Filed 3-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-5-001 and RP89-35-007]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

March 6, 1990.

Take notice that on March 1, 1990, Midwestern Gas Transmission Company (Midwestern) filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1990:

First Revised Sheet No. 6
Second Revised Sheet No. 45
Second Revised Sheet No. 54

Midwestern states that the purpose of its revisions is to reflect the settlement rates on Midwestern's system in its annual Purchased Gas Adjustment (PGA), designate changes in fuel retention percentages to reflect current levels, reflect the latest gas costs of its principal supplier and correct certain tape errors in the original filing.

Midwestern states that the Current Purchased Gas Cost Rate Adjustments reflected on First Revised Sheet No. 6 consist of a $(.1667) per dekatherm adjustment to the gas rate, $.0025 per dekathern adjustment to Rate Schedule SR-1 and a $.03 per dekatherm adjustment applicable to the demand rate. The stated adjustments reflect changes from the rates filed in Docket No. TQ90-5-5.

Midwestern states that the current adjustment to its demand rate reflects the elimination of Midwestern's two-part demand charge and the implementation of a one-part demand charge.

Midwestern states that the revisions also reflect a $(.43) per dekatherm surcharge adjustment to the demand rate for amortizing the Unrecovered Gas Cost Account.

Midwestern has also resubmitted Schedule C2 to correct errors in the tape filed in Docket No. TA9-1-5. Finally, Midwestern has resubmitted its computed projected gas costs assessment.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5660 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

March 6, 1990.

Take notice that on March 1, 1990, National Fuel Gas Supply Corporation ("National") tendered for filing Twenty-Eighth Revised Sheet No. 4 as part of its FERC Gas Tariff, First Revised Volume No. 1, proposed to become effective April 1, 1990.

National states that the purpose of this filing is to reflect a quarterly Purchased Gas Adjustment ("PGA"). The proposed tariff sheet results in a 3.12 cents per dekatherm (Dth) increase in its commodity gas cost in comparison with National's 30-day update to its annual purchased gas cost adjustment, filed on December 1, 1989, in Docket No. TA90-1-16-001. The filing also reflects an average commodity cost of purchased gas of $2.7809 per Dth, and an RQ and CD sales commodity rate of $2.9988 per Dth.

National further states that copies of this filing were served on National's jurisdictional customers and on the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions to intervene or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceding. Any person wishing to become a party

must file a moton to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5651 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-59-000]

Northern Natural Gas Co. Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

March 6, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp. (Northern), on March 1, 1990, tendered for filing changes in its FERC Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 (Volume No. 1 Tariff and Original Volume No. 2 Tariff).

Northern is filing the revised tariff sheets to adjust its Base Average Gas Purchase Cost in accordance with the Quarterly PGA filing requirements codified by the Commission's Order Nos. 483 and 483-A. The instant filing reflects a Base Average Gas Purchase cost of $1.5828 per MMBtu to be effective April 1, 1990, through June 30, 1990. Northern further intends to use its flexible PGA, as necessary, to reflect actual market conditions throughout this time period.

Also the instant filing establishes new Demand rates in compliance with the above referenced PGA rulemaking. Such required Northern to adjust its PGA demand rate components on a quarterly versus annual basis. This filing will establish a new D1 rate of $2.814 and eliminate the D2 rate. This treatment of the D1 and D2 components is pursuant to the filing of the Motion to Implement Settlement Rates and Dockets RP88-259 and CP89-136, as filed on January 16, 1990 and effectuated February 1, 1990. These rates will be effective April 1, 1990 through June 30, 1990.

Northern states that copies of the filing were served upon the company's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5666 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90-3-8-000]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

March 6, 1990.

Take notice that on March 1, 1990, South Georgia Natural Gas Company ("South Georgia") tendered for filing Sixtieth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet is being filed with a proposed effective date of April 1, 1990, pursuant to the Purchased Gas Cost Adjustment provision set out in Section 14 of South Georgia's FERC Gas Tariff.

South Georgia states that Sixtieth Revised Sheet No. 4 reflects a revised Current Adjustment computed in accordance with § 154.305(c) of the Federal Energy Regulatory Commission's ("Commission") Regulations. The Current Adjustment, which is proposed to be in effect from April 1, 1990, through June 30, 1990, reflects an increase in jurisdictional revenues of approximately $137,000 which is attributable to an increase in the demand component of $.155 per Mcf and an increase in the commodity component of $.18 per MMBtu from South Georgia's quarterly PGA filing in Docket No. TQ90-2-8-000.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211 and 385.214). All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5664 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. T090-3-9-000]

Tennessee Gas Pipeline Co.; Rate Change Under Tariff Rate Adjustment Provisions

March 6, 1990.

Take notice that on March 1, 1990, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective April 1, 1990:

Second Revised Volume No. 1

Item A:

Seventeenth Revised Sheet No. 20
Fourteenth Revised Sheet No. 20A
Twenty-Third Revised Sheet No. 21

Item B:

Fifth Revised Sheet No. 350
Fifth Revised Sheet No. 351
Fourth Revised Sheet No. 352
Fourth Revised Sheet No. 353
Fourth Revised Sheet No. 354
Fourth Revised Sheet No. 355
Fourth Revised Sheet No. 356
Fourth Revised Sheet No. 357
Third Revised Sheet No. 358
Fifth Revised Sheet No. 359
Fifth Revised Sheet No. 360
Second Revised Sheet No. 361
Second Revised Sheet No. 362

Original Volume No. 2

Item C:

Eighteenth Revised Sheet No. 5
Seventeenth Revised Sheet No. 6

Tennessee states that the purpose of the revisions listed as Item A is to reflect PGA quarterly rate adjustments pursuant to section 2 of Article XXIII of the General Terms and Conditions of Tennessee's Tariff.

Tennessee states that the purpose of the revisions listed as Item B is to update the Index of Purchasers to reflect the most current contract information available.

Tennessee states that the purpose of the revisions listed as Item C is to adjust transportation rate schedules to reflect changes in the cost of gas used for fuel pursuant to section 5 of Article XXIII of the General Terms and Conditions.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory

Commission, 825 North Capitol Street, Washington DC 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5667 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-254-002 and RP89-48-007]

Transwestern Pipeline Co.; Compliance Filing

March 6, 1990.

Take notice that Transwestern Pipeline Company (Transwestern) on March 2, 1990 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective April 1, 1990

74th Revised Sheet No. 5
41st Revised Sheet No. 6
Substitute 3rd Revised Sheet No. 24
Substitute 5th Revised Sheet No. 25
Substitute 2nd Revised Sheet No. 25A
1st Revised Sheet No. 25B
Original Sheet No. 25B. 1
Substitute 2nd Revised Sheet No. 28
Substitute 5th Revised Sheet No. 29
3rd Revised Sheet No. 29A
Substitute 1st Revised Sheet No. 29B
1st Revised Sheet No. 29C
1st Revised Sheet No. 29D
1st Revised Sheet No. 29E
Original Sheet No. 29F
6th Revised Sheet No. 30
Substitute 4th Revised Sheet No. 31
Original Sheet No. 31A
Substitute 6th Revised Sheet No. 32
Substitute 3rd Revised Sheet No. 32A
Substitute 1st Revised Sheet No. 32B
1st Revised Sheet No. 32C
1st Revised Sheet No. 32D
5th Revised Sheet No. 33
1st Revised Sheet No. 33A
Substitute 4th Revised Sheet No. 128
Substitute 1st Revised Sheet No. 140

On September 29, 1989, Transwestern filed tariff sheets to recover Transwestern's cost of transmission fuel, company use gas and lost and unaccounted for gas through its transportation commodity rates, rather than on an "in-kind" basis or as a percentage of the gas costs underlying existing sales rates. Transwestern also sought to increase the 4% transmission fuel component for deliveries west of Roswell, New Mexico to 6.46% and the 2.2% transmission fueld component for deliveries east of Roswell, New Mexico to 3.55% On October 27, 1989, the Commission accepted these tariff sheets, suspended their effectiveness until April 1, 1990, subject to refund. Ordering paragraph (A) of the October 27, 1989, Order required Transwestern to refile tariff sheets that allow transportation customers the option of paying "in-kind" or paying the as-filed fuel charge through the transportation commodity rates. Pursuant to, and in compliance with, the October 27, 1989 Order, Transwestern submitted the above-referenced tariff sheets.

Transwestern respectfully requested that the Commission grant any and all waivers of its rules, regulations and orders as may be necessary so as to permit the above listed tariff sheets to become effective April 1, 1990.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Fedeal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5668 Filed 3-12-90; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. TQ90-2-35-000]

West Texas Gas, Inc.; Filing

March 6, 1990.

Take notice that on March 1, 1990, West Texas Gas, Inc. (WTG) filed Eighteenth Revised Sheet No. 3a to its FERC Gas Tariff, Original Volume No. 1, proposed to be effective April 1, 1990. This tariff sheet was filed by WTG in accordance with the Commission's purchased gas adjustment regulations.

Copies of the filing were served upon WTG's customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1987)). All such motions or protests should be filed on or before March 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5656 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-43-000]

Williams Natural Gas, Co.; Proposed Changes in FERC Gas Tariff

March 6, 1990.

Take notice that Williams Natural Gas Company (WNG) on March 1, 1990, tendered for filing First Revised Nineteenth Revised Sheet No. 6, First Revised Fifth Revised Sheet No. 6A and First Revised Eighteenth Revised Sheet No. 7 to its FERC Gas Tariff, Original Volume No. 1. WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to decrease its rates effective May 1, 1990, to reflect:

(1) No change in the Cumulative Adjustment.

(2) A $.1449 per Dth decrease in the Surcharge Adjustment (to a positive $.1542 per Dth from a positive $.2991 per Dth) to amortize the Deferred Purchase Gas Cost Subaccount Balance.

(3) A $.0021 per Dth increase in the TOP Volumetric Surcharge (from a positive $.0264 per Dth to a positive $.0285 per Dth).

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211

and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 26, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-5655 Filed 3-12-90; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 90-340]

Comments Invited on Florida Regional Public Safety Plan

The Commission has received the public safety radio communications plan for the Florida Area (Region 9).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, parties are hereby given thirty days from the date of **Federal Register** publication of this public notice to file comments and fifteen days to reply to any comments filed. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

In accordance with the Commission's Memorandum Opinion and Order in General Docket No. 87-112, Region 9 consists of the State of Florida. General Docket No. 87-112, 3 FCC Rcd 2113 (1988).

Comments should be clearly identified as submissions to General Docket 90-119, Florida—Region 9, and commenters should send an original and five copies to the Secretary, Federal Communications Commission, Washington, DC 20554.

Questions regarding this public notice may be directed to Maureen Cesaitis, Private Radio Bureau, (202) 632-6497 or Fred Thomas, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-5628 Filed 3-12-90; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for four new FM stations:

Applicant, city and state	File No.	MM docket No.
I		
A. Modesto Broadcast Group; Modesto, CA.	BPH-880229MB	90-68
B. Harry S. McMurray; Modesto, CA.	BPH-880301MP	
C. Stanislaus Communications Corporation; Modesto, CA.	BPH-880301MR	
D. Modesto Communications Corporation; Modesto, CA.	BPH-880301NC	
E. Juan Manuel Ayala; Modesto, CA.	BPH-880301NF	
F. Eileen S. Lapin, Douglas M. Lapin and Stanley P. Lapin d/b/a Lapinco; Modesto, CA.	BPH-880301NJ	
G. Chia-Ling Farnham; Modesto, CA.	BPH-880301NY	
H. Fourway FM Broadcasting Limited Partnership; Modesto, CA.	BPH-880301OC	
I. Great Scott Broadcasting; Modesto, CA.	BPH-880301OG	
J. Juarez and Flores, Inc.; Modesto, CA.	BPH-880301OJ	
K. BCD Limited Partnership; Modesto, CA.	BPH-880301OS	
L. Thom Reinstein Communications, A California Limited Partnership; Modesto, CA.	BPH-880301OU	
M. Pamela R. Jones; Modesto, CA.	BPH-880301OY	
Issue heading and applicant(s) 1. Financial, G 2. See Appendix, H 3. See Appendix, H 4. See Appendix, H 5. Alien Control, J 6. Air Hazard, K 7. Comparative, A-M 8. Ultimate, A-M		
II		
A. Osceola Communications, Inc.; Ocilla, GA.	BPH-870930MG	90-58
B. Augusta Radio Fellowship Institute, Inc. d/b/a Georgia Radio Fellowship; Ocilla, GA..	BPH-871001MG	
Issue heading and applicant(s) 1. Financial, B 2. Misrepresentation, B 3. Air Hazard, A,B 4. Comparative, A,B 5. Ultimate, A,B		
III		
A. Benny L. Bee, Jr.; Bakersfield, CA.	BPH-880114ME	90-72
B. ASK Broadcasting Corporation; Bakersfield, CA.	BPH-880114MN	
C. Rochelle Lucas d/b/a Hometown Broadcaster of Bakersfield; Bakersfield, CA.	BPH-880114MQ	
D. McGavren-Barro Broadcasting Corp.; Bakersfield, CA.	BPH-880114NB	
E. Kern County Broadcast Limited Partnership; Bakersfield, CA.	BPH-880114NE	
F. Etgee Broadcasting; Bakersfield, CA.	BPH-880114NG	
G. TonGila Communications, Inc.; Bakersfield, CA.	BPH-880114NO	
Issue heading applicants 1. See Appendix, E 2. See Appendix, E 3. See Appendix, E 4. See Appendix, E 5. Financial, A 6. Air Hazard, B,E 7. Comparative, A,B,C,D,E,F,G 8. Ultimate, A,B,C,D,E,F,G		
IV		
A. Wayne L. Dilucente; Coral Cove, Florida.	BPH-871203MJ	90-62
B. M&M Broadcasting, Ltd.; Coral Cove, Florida.	BPH-871203MS	
C. Southwest Florida Radio Associates Inc.; Coral Cove, Florida.	BPH-871203MT	
D. Christine Harvel; Coral Cove, Florida.	BPH-871203NH	
E. Florida Radio Broadcasting; Coral Cove, Florida.	BPH-871203NI	
F. Kathleen Bell Haidar, d/b/a Coral Cove Associates; Coral Cove, Florida.	BPH-871203NJ	
Issue heading and applicant(s) 1. See Appendix, C		

Applicant, city and state	File No.	MM docket No.
2. See Appendix, C		
3. See Appendix, C		
4. Comparative, A,B,C,D,E,F		
5. Ultimate, A,B,C,D,E,F		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix (Modesto, California)

2. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of H (Fourway).

3. To determine whether H (Fourway's) organizational structure is a sham.

4. To determine, from the evidence adduced pursuant to issues 2 and 3 above, whether H (Fourway) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Bakersfield, California)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of E (Kern).

2. To determine whether E's (Kern) organizational structure is a sham.

3. To determine whether E (Kern) violated § 1.65 of the Commission's Rules and/or lacked candor by failing to report: (i) The designation of character issues against other applicants in which several of its owners have an ownership interest, and (ii) the dismissal of such applications with unresolved character issues pending.

4. To determine, from the evidence adduced pursuant to Issues 1 through 3 above, whether E (Kern) possesses the basic qualifications to be a licensee of the facilities sought herein.

Appendix (Coral Cove, Florida)

Additional Issue Paragraphs

1. To determine whether Sonrise Management Services, Inc. is an undisclosed party to the application of C (Southwest).

2. To determine whether C's (Southwest) organizational structure is a sham.

3. To determine, in light of the evidence adduced pursuant to Issues 1 and 2 above, whether C (Southwest) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90–5627 Filed 3–12–90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Deregistration Form for Registered Transfer Agents.

Form Number: None.

OMB Number: 3064–0027.

Expiration Date of OMB Clearance: June 30, 1990.

Frequency of Response: On occasion.

Respondents: Insured nonmember banks.

Number of Respondents: 34.

Number of Responses per Respondent: 1.

Total Annual Responses: 34.

Average Number of Hours per Response: 0.42.

Total Annual Burden Hours: 14.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FDIC Contact: John Keiper, (202) 898–3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before May 14, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to extend, for another three-year period, the use of the form required by the FDIC for an insured nonmember bank to provide notice of withdrawal from registration as a transfer agent. Under FDIC regulation 12 CFR 341.5 such written notice of withdrawal is required when a registered transfer agent ceases to engage in the functions of a transfer agent. This requirement implements the provisions of section 17A(c)(4)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1).

Dated: March 7, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–5634 Filed 3–12–90; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: New collection.

Title: Activities and Investments of Savings Associations.

Form Number: None (various letter applications and notices).

Frequency of Response: In some cases on occasion, in others, respones are one time only.

Respondents: Some of the collections apply to state chartered thrifts, some to federals, and some to all thrifts meeting certain criteria.

Number of Respondents: 2,303.

Number of Responses Per Respondent: 1.

Total Annual Response: 2,303.

Average Number of Hours Per Response: 5.11

Total Annual burden Hours: 11,768

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FDIC Contact: John Keiper, (202) 898–3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429

Comments: Comments on these collections of information are welcome and should be submitted before May 14, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval for the new information collections contained in Interim Rule 12 CFR 303.13 (54 FR 53540, Dec. 29, 1989). These collections are mandated by Sections 221 and 222 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and will be used by the FDIC to fulfill its statutory obligation to enforce new thrift industry restrictions and filing requirements.

Sections 221 and 222 impose new restrictions on the activities and investments of savings associations. Savings associations seeking exemption from the new restrictions must file either an application or a notice, depending on the restriction. The sections also require statutorily exempt associations to file a notice indicating which exemptions they enjoy.

Dated: March 5, 1990.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–5633 Filed 3–12–90; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Paul C. Griebel et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 C.F.R. 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 27, 1990.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Paul C. Griebel,* Eagan, Minnesota, and Alan Kluis, Mankato, Minnesota; to each acquire 50 percent of the voting shares of Grant County Bancshares, Inc., Elbow Lake, Minnesota, and thereby indirectly acquire State Bank of Wendell, Wendell, Minnesota, and Bank of Elbow Lake, Elbow Lake, Minnesota.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bradley F. Bracewell,* Houston, Texas; to acquire 18.04 percent of the voting shares of First University Corporation, Houston, Texas, and thereby indirectly acquire West University Bank, N.A., Houston, Texas.

2. *Kenneth E. Semlinger,* Poth, Texas; to acquire 3.45 percent of the voting shares of Poth Bancorporation, Inc., Poth, Texas, and thereby indirectly acquire The First National Bank of Poth, Poth, Texas.

Board of Governors of the Federal Reserve System, March 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–5692 Filed 3–13–90; 8:45 am]

BILLING CODE 6210–01–M

Allied Irish Banks Limited plc, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 2, 1990.

A. **Federal Reserve Bank of Richmond** (Fred L. Bagwell, Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Allied Irish Banks Limited plc,* Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland; to acquire 100 percent of the voting shares of Columbia National Bank, Washington, DC.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *CNB Financial Corporation,* Kansas City, Kansas; to acquire 100 percent of the voting shares of First Bank and Trust, Concordia, Kansas, and First National Bank of Glasco, Glasco, Kansas.

Board of Governors of the Federal Reserve System, March 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–5691 Filed 3–12–90; 8:45 am]

BILLING CODE 6210–01–M

State Bank of South Australia et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23 (a) (1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation

Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 2, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *State Bank of South Australia*, Adelaide, South Australia, Australia; to engage *de novo* through its subsidiary, Centre Capital Funding Corporation, Inc., Evanston, Illinois, in making, acquiring and servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the subsidiary's own account or for the account of others, such as would be made by consumer finance, mortgage, commercial finance and factoring companies pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 7, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-5693 Filed 3-12-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority; Assistant Secretary for Management and Budget

Notice is hereby given that on January 8, 1990, the Secretary granted to the Assistant Secretary for Management and Budget specific authorities for the emergency preparedness functions for the Office of the Secretary. These authorities are vested in the Secretary by the National Security Act of 1947, as amended; Defense Production Act of 1950, as amended; Federal Civil Defense Act of 1950, as amended; Disaster Relief Act of 1974, as amended; and Executive Order 12656. They include the authorities to: (a) Develop plans and take actions necessary to assure that the Office of the Secretary will be able to perform its essential functions and continue as a viable part of the Department during any national emergency situation, and will be able to respond to major disasters; and (b) prepare national and regional emergency plans and develop preparedness programs covering functions and responsibilities assigned to your organization.

Specific requirements for the performance of these authorities are contained in relevant Parts of Executive Order 12656, in sections 302 and 306 of the Disaster Relief Act of 1974, and in the HHS Emergency Planning and Operations Manual.

This delegation supersedes the December 21, 1981 delegation of emergency preparedness functions to the Assistant Secretary for Management and Budget.

Date: March 2, 1990.

Kevin E. Moley,

Assistant Secretary for Management and Budget.

[FR Doc. 90-5629 Filed 3-12-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 89N-0486]

Bolar Pharmaceutical Co.; Abbreviated New Drug Application for Triamterene and Hydrochlorothiazide Capsules; Denial of Hearing and Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs (the Commissioner) denies a hearing and withdraws approval of abbreviated new drug application (ANDA) 71-845 for Triamterene 50 milligrams (mg) and Hydrocholorothiazide 25 mg Capsules, held by Bolar Pharmaceutical Co., Inc., P.O. Box 30, 33 Ralph Ave., Copiague, NY 11726-0030 (Bolar). The Commissioner is withdrawing approval because (1) the application contains untrue statements of material fact, and (2) based on new information, evaluated together with the evidence available when the application was approved, there is a lack of substantial evidence that the drug will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. The Commissioner is also providing notice that the product will be removed from the Food and Drug Administration's (FDA's) list of approved drug products.

EFFECTIVE DATE: March 13, 1990.

FOR FURTHER INFORMATION CONTACT: Walter A. Brown, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the Federal Register of November 20, 1989 (54 FR 48026), the Director of the Center for Drug Evaluation and Research (the Director) offered an opportunity for a hearing on a proposal to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)) to withdraw approval of ANDA 71-845, Triamterene 50 mg and Hydrochlorothiazide 25 mg Capsules, held by Bolar.

In the proposal to withdraw approval of the ANDA, the Director found that Bolar's ANDA contained a number of untrue material statements concerning the bioequivalence of Bolar's product to Dyazide Capsules, the innovator listed drug marketed by Smith Kline & French, Inc. (SKF), as well as untrue material statements concerning the dissolution and stability of, and manufacturing procedures and controls used for, Bolar's product. Based on these untrue statements, as well as on other discrepancies, errors, and missing information in Bolar's records, and information from new analyses and studies, the Director further found tha there was a lack of substantial evidence

that Bolar's product was effective for its labeled indications.

Interested persons were advised in the proposal that hearing requests "may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing," and that failure to provide such a response would result in the denial of a hearing and entry of summary judgment against the person(s) who requested a hearing. Interested persons were asked to file hearing requests by December 20, 1989, and to file the data, information, and analysis relied on to justify the hearing by January 19, 1990.

On December 19, 1989, Bolar submitted a hearing request, and on January 19, 1990, the company submitted data and information in support of the request. In its response to the notice, Bolar did not contest any of the Director's findings that the company's ANDA contained untrue statements and that results of new test information obtained by FDA raised further questions about the reliability of data in Bolar's ANDA. Nor did Bolar disagree with the Director's conclusion that the facts discussed in the notice constituted grounds to withdraw approval of the ANDA. Instead, Bolar requested that the agency "hold in abeyance" any action on the ANDA until an ongoing bioequivalence study could be completed and analyzed. Bolar argued that the agency should delay its action because (1) there was no "bona fide" question as to the safety or effectiveness of its product, (2) any questions about the bioequivalence of Bolar's product would be answered by the bioequivalence study which the company expected to complete within 60 to 90 days, and (3) the continued marketing of its product would be in the public interest. Bolar also argued that it could put forward data to rebut the allegations in the notice that its ANDA contained material false statements, but that to do so at this time would require the commitment of substantial resources and was not in the public interest.

The Commissioner has reviewed Bolar's response to the proposal and the data on file with the Dockets Management Branch, Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD, and concludes that Bolar has failed to raise a genuine and substantial issue of fact requiring a hearing under 21 CFR 314.200, and that summary judgment should be granted in favor of the agency. The reasons for this decision are described below.

A. The Uncontested Grounds for Withdrawal

The proposal to withdraw approval of Bolar's ANDA sets forth, in detail, a number of material untrue statements, discrepancies, errors in and information missing from records concerning the manufacture and testing of Bolar's lot RD0054. This lot was used by Bolar to demonstrate the bioequivalence, appropriate dissolution, adequate manufacturing procedures and controls, and stability required to obtain approval of its product.

First, the Director described several untrue statements and discrepancies concerning the active ingredients used to manufacture lot RD0054. The Director found that these untrue statements and discrepancies raised questions about the identity and characteristics of the active ingredients used in the lot and the time at which the lot was manufactured. The Director concluded that these untrue statements and discrepancies cast doubt on the veracity of other representations made in the ANDA concerning lot RD0054.

Second, the Director described significant discrepancies between the batch record for lot RD0054 that Bolar submitted to FDA in support of the ANDA and the original batch record for this lot found at the firm. The Director concluded that these discrepancies raised questions about how and when lot RD0054 actually made and that they precluded the agency from determining whether the methods used to manufacture this lot were representative of the manufacturing procedures approved in the ANDA.

Third, the Director cited errors, omissions, discrepancies, record alternations, and untrue statements regarding lot RD0054 that raised questions whether the test results submitted by Bolar related to lot RD0054 or whether they related to another lot (RD0047), which was found to be not bioequivalent to Dyazide and which was manufactured using procedures different than were used to make lot RD0054.

Finally, the Director found that there were no records to show that Bolar had performed any tests to assure uniformity of the blend prior to encapsulation of lot RD0054. The Director concluded that the absence of such data precluded assurance that the bioequivalence sample was representative of the entire lot, and, therefore, that the bioequivalence study results could not be extrapolated to the marketed product.

In addition, the Director evaluated other new information consisting of FDA dissolution testing of samples and results from a postapproval study submitted by Bolar to the State of Tennessee (the Tennessee study). FSA's dissolution testing showed the following: (1) Samples of Bolar lot RD0054 dissolved at a much faster rate than reported by Bolar in the ANDA, (2) samples of the SKF lot of Dyazide Capsules (1006E90) that had been used in Bolar's ANDA as a reference dissolved at a much slower rate than reported by Bolar, and (3) three current Bolar production lots dissolved at a much slower rate than samples of lot RD0054 tested by FDA. The data from the Tennessee study, which was conducted by Bolar, showed unacceptable differences in bioequivalence between the Bolar production lot and the SKF reference lot used in the test. The Director concluded that this new information failed to confirm the data submitted in the ANDA and raised further questions about the reliability of the data submitted concerning lot RD0054.

The Director found that ANDA 71–845 contained untrue statements of fact and concluded that the untrue statements were material because they could have affected the agency's decision to approve the application.

The Director also concluded that the untrue statements, together with the cited discrepancies, errors, missing information, and new analyses and studies that failed to adequately support the earlier data, constituted new information that undermined the reliability and adequacy of the data provided in support of the approval of ANDA 71–845. The Director stated that without reliable information concerning the identity, characteristics, and method of manufacture of lot RD0054, which Bolar used to demonstrate the bioequivalence and proper dissolution and stability necessary for approval, the agency could not assume that the results of the studies on lot RD0054 were applicable to the approved, marketed product. In the absence of reliable data demonstrating bioequivalance between Bolar's drug and the listed drug, the Director was unable to conclude that the clinical efficacy studies supporting the approval of the listed drug were applicable to Bolar's product. The Director thus determined that there was a lack of substantial evidence of effectiveness for Bolar's product. (See section 505(d) of the act (21 U.S.C. 355(d)) (substantial evidence must include "adequate and well-controlled investigations, including clinical investigations, * * *").)

As noted, Bolar has not contested these findings or otherwise identified an

issue of fact that must be resolved at a hearing, as required by 21 CFR 314.200. The Commissioner finds that these facts are adequate grounds for withdrawal of the ANDA under section 505(e) of the act (21 U.S.C. 355(e)) and concludes that withdrawal of the approval of ANDA 71-845 without a hearing is legally appropriate. The Commissioner also rejects the argument that summary judgment should be delayed because it is inconvenient for Bolar to rebut the evidence regarding the material false statements contained in its ANDA. "A party opposing a motion for summary judgment simply cannot make a secret of his evidence until the trial, for in doing so he risks the possibility that there will be no trail." *Donnelly* v. *Guion*, 467 F.2d 290, 293 (2d Cir. 1972); Fed. R. Civ. P. 56(e).

B. The Request to Hold Withdrawal in Abeyance

Despite Bolar's failure to contest the grounds for withdrawal of the approval of its ANDA, the firm requests that consideration of whether a hearing is warranted should be held in abeyance. In support of this request Bolar argues that: (1) There is no "bona fide" question as to the safety or effectiveness of its product, (2) the company expects to complete a new bioequivalence study in 60 to 90 days, and (3) the continued marketing of its product is in the public interest. The Commissioner finds that these reasons do not constitute a legal defense to the proposed withdrawal, but rather invoke his discretion to delay taking action that is legally appropriate. The Commissioner declines to grant the delay sought by Bolar.

Bolar's contention that there is no bona fide question as to the actual safety and effectiveness of its product rests primarily on the claim that there is no evidence which affirmatively shows that the product is not safe and effective. Under the act, however, FDA is authorized, if not required to withdraw approval of any product when the product "is not shown to be safe," "there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have," or when "the application contains any untrue statement of a material fact * * *". 21 U.S.C. 355(e)(2) through (4) (emphasis added). It is not FDA's burden to show that a product is unsafe or ineffective. FDA need only find that there is not sufficient evidence to permit a responsible conclusion of safety or effectiveness, or that the application contains an untrue material statement.

In any event, FDA is not withdrawing approval of Bolar's ANDA on safety grounds; rather, the ANDA is being withdrawn because effectiveness has not been shown and because the ANDA contains untrue statements of material fact. Accordingly, Bolar's claim that FDA should not doubt the actual safety of its product is not relevant.

Moreover, to the extent that Bolar's claim of actual safety is based on statements made by the Director in August and September 1989 and on the alleged absence of significant numbers of adverse drug reactions (ADRs) reported to the agency by Bolar, the claim is insubstantial.

The Director did not state that Bolar's product was safe. Rather, in August 1989, he stated:

> The facts are that the drug was approved about a year ago on the basis of information that [Bolar] provided to us at the time. And at that time, it appeared to meet our standards. *In the meantime, we have become aware of new information that calls into question the original data that was submitted to us. And we cannot be sure that the drug actually meets our standards at the moment.*
>
> On the other hand, we have no reason to believe that the drug is unsafe or that it is ineffective.

See, "Sonya Live in L.A." (Station CNN-TV, Aug. 29, 1989, broadcast, Transcript 2) (emphasis added).

Similarly, in a letter dated September 28, 1989, the Director explained to Bolar's president why FDA had decided to change the therapeutic equivalence rating of Bolar's product and why the agency was refusing to grant the company's request to stay that action. The Director stated:

> You have failed to demonstrate that your company will suffer irreparable injury from the agency's decision. Your unexplained reference to grave economic hardship is unsupported and speculative. The agency is not removing your product from the market by this action, nor is the agency advising the public that your product is unsafe or that it cannot be used effectively for its labeled indications. Thus, you are not precluded by this action for manufacturing and marketing your product.

See September 28, 1989, letter to Robert Shulman, from Carl C. Peck, M.D., page 3 (emphasis added). In short, the Director's statements provide no basis for concluding that Bolar's product is safe.

Nor does the Commissioner accept the alleged absence of reported significant ADRs as an adequate basis to find that a product is safe. The absence of reported ADRs is an unreliable and crude index of the rate of adverse reactions, particularly where the product is a generic drug. In many cases, the patient may not even be aware that he or she has experienced an adverse reaction, or may not attribute the reaction to a particular product; even when the patient believes that an ADR has occurred, he or she may not report the reaction to a physician. In turn, the physician who receives the report, may either improperly not attribute it to the product or may believe that the product is implicated, but nevertheless not report the reaction to the company (e.g., because the ADR is already reflected on the product insert or because of more pressing matters). Finally, even when the information has been reported to the company, FDA is not always informed of the report.

The information in Bolar's ANDA is required to demonstrate, through proof of bioequivalence, stability, and appropriate manufacturing controls and procedures, that Bolar's product is safe and effective. Bolar's ANDA, however, contains so many false and unsubstantiated claims that it would be imprudent to conclude that safety and efficacy have been shown by Bolar. In fact, the additional information available to the agency from new tests and analyses not only fails to establish the safety and effectiveness of the product, but also raised further questions about the reliability of the data in Bolar's ANDA.

Bolar argues that the therapeutic efficacy of its product has been confirmed by an adequate and well-controlled clinical study comparing its product and Dyazide Capsules for hypertension and a number of other parameters. (See Sharoky, M; M. Perkal; B. Tabatznik; R. C. Cane, Jr.; K. Costello; and P. Goodwin, "Comparative Efficacy and Bioequivalence of a Brand-Name and a Generic Triamterene-Hydrochlorothiazide Combination Product," *Clinical Pharmacy*, 8:496-500, 1989.) Although the study purports to not show a statistically significant difference between the two products in the clinical control of hypertension, the study is not adequate to provide substantial evidence of effectiveness for Bolar's product, for several reasons.

First, the study is not well-controlled. The regulations governing clinical investigations require that the study report "provide sufficient details * * * to allow critical evaluation and a determination of whether the characteristics of an adequate and well-controlled study are present." 21 CFR 314.126(a). Among other things, the report must include a description of the method of selection of subjects that provides "adequate assurance that they have the disease or condition being studied." 21 CFR 314.126(b)(3). The report of this study, however, provides no diagnostic criteria or details that permit such as evaluation.

The reader is told only that "patients with a diagnosis of nonlabile essential hypertension who were receiving * * * Dyazide * * * were recruited for the study. Diagnosis and documentation of dosages received were determined by contacting the patients' primary-care physicians." See Sharoky et al., *supra*, at p. 497.

The regulations also require that the "methods of assessment of subjects' responses are well-defined and reliable." § 314.126(b)(6). The study report, however, states that "[w]hen possible" all blood pressure measurements were made with the same equipment, at the same time of day, on the same arm, and by the same person. No information is given as to how often this was not possible or whether any steps were taken to standardize the different equipment used or otherwise account for the different variables.

Second, even if this study were well-controlled, it has not been replicated and does not address effectiveness for edema, the primary indication for Bolar's product. 21 U.S.C. 355(d). Nor can this study overcome the lack of reliable information to demonstrate the stability of Bolar's product throughout its shelf-life.

Bolar's assertion that it will present the results of a bioequivalence study to the agency in the near future does not warrant holding the withdrawal action in abeyance. The new information may not be available in the time frame proposed by Bolar and, in any event, may not establish bioequivalence. Moreover, a study establishing bioequivalence will not, in and of itself, cure the problems with Bolar's ANDA. This ANDA contains so many critical falsehoods and discrepancies that the entire contents of the submission are in question. As discussed in the notice proposing to withdraw approval, the untrue statements, discrepancies, and errors affect not only the bioequivalence study, but also the information concerning manufacturing controls and dissolution and stability data that are necessary for approval of the application. Bolar's submission did not address these additional deficiencies.

Bolar's recent recall of its product to the retail level renders moot the firm's argument that it is in the public interest to continue marketing pending completion of a new bioequivalence study. Moreover, the marketing of a product whose effectiveness has not been established—a product marketed based on the submission of false statements to the government by Bolar—cannot be deemed to be in the public interest. The innovator product that Bolar purported to emulate in its ANDA is available to the public, as are other alternative treatments for the same indications. Although, as Bolar notes, there is a public interest in the availability of lower cost generic drugs, it is clear that there is a more fundamental interest in protecting the public from drugs of unproven effectiveness. The lack of adequate assurance that a product will be effective cannot be overcome by the product's lower cost.

The Commissioner has also considered whether the recall of Bolar's product makes this action unnecessary, and concludes that the withdrawal should go forward. If the ANDA were not formally withdrawn, Bolar would be free to resume marketing without FDA's prior approval. The history of this proceeding dictates that Bolar's product should be returned to the marketplace only after a very careful review of the entire application has occurred.

II. Conclusions, Findings, and Action

On the basis of the foregoing review of the evidence and Bolar's response to the November 20, 1989, notice, the Commissioner finds that: (1) ANDA 71-845 contains untrue statements of material fact, and (2) on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling. The Commissioner also finds that there is no genuine and material issue of fact requiring a hearing. Therefore, the Commissioner denies Bolar's request for a hearing. Bolar's request to delay a ruling on its hearing request is not in the public interest and is also denied.

Under section 505(e) of the act (21 U.S.C. 355(e)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), approval of ANDA 71-845 and all amendments and supplements thereto is withdrawn effective March 13, 1990. Distribution of this drug product in interstate commerce without an approved application is illegal and subject to regulatory action.

Section 505(j)(6)(C) of the act requires that FDA immediately remove from its approved product list ("Approved Drug Products with Therapeutic Equivalence Evaluations") (the list) any drug whose approval was withdrawn for grounds described in the first sentence of section 505(e) of the act. Such grounds apply to this withdrawal of approval of ANDA 71-845. Notice is hereby given that the drug covered by ANDA 71-845 is removed from the list.

Dated: February 28, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-5697 Filed 3-12-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority; Medicaid Bureau

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) is amended to update the HCFA Mission Statement and to reflect a reorganization of HCFA to establish a separate Medicaid Bureau reporting directly to the Administrator, HCFA.

The specific changes to part F are:

- Section F.00., Health Care Financing Administration (Mission), is amended to read as follows:

Section F.00., Health Care Financing Administration (Mission)

The mission of the Health Care Financing Administration (HCFA) is to administer the Medicare and Medicaid programs and related provisions of the Social Security Act and the Public Health Services Act in a manner which: (1) Promotes the timely and economic delivery of appropriate quality health care to eligible beneficiaries, (2) promotes beneficiary awareness of the services for which they are eligible and improves the accessibility of those services, and (3) promotes efficiency and quality within the total health care delivery system. To accomplish this mission, HCFA provides operational direction and policy guidance for the nation-wide administration of the Medicare and Medicaid health care financing programs; the Peer Review Organization and related quality assurance programs designed to promote quality, safety, and appropriateness of health care services provided under Medicare and Medicaid; quality control programs designed to assure the financial integrity of Medicare and Medicaid funds; and various policy, planning, research and demonstration activities. HCFA coordinates with the Office of the Secretary of the Department of Health and Human Services.

• Section F.10., Health Care Financing Administration (Organization), is amended to read as follows:

Section F.10., Health Care Financing Administration (Organization)

The Health Care Financing Administration (HCFA) is an Operating Division of the Department. It is headed by an Administrator, HCFA, who is appointed by the President and reports to the Secretary. It consists of the following organizational elements:

A. Office of the Administrator (FA)
B. Office of Legislation and Policy (FB)
C. Office of Prepaid Health Care (FC)
D. Medicaid Bureau (FM)
E. Office of Executive Operations (FE)
F. Office of the Associate Administrator for Communications (FG)
G. Office of the Associate Administrator for Management (FH)
H. Office of the Associate Administrator for Operations (FP)
I. Office of the Associate Administrator for Program Development (FQ)

• Section FC.20., Office of Prepaid Health Care (FC) (Fuctions), is amended to reflect the transfer of responsibility for Medicaid prepaid health care activities to the new Medicaid Bureau. The amended Section FC.20 reads as follows:

Section FC.20., Office of Prepaid Health Care (FC)

Provides national direction and executive leadership for prepaid health activities, including health maintenance organizations (HMOs), competitive medical plans (CMPs), other capitated health organizations, and vouchers. Develops national policies and objectives for the development, qualification, and ongoing compliance of HMOs and CMPs. Develops long- and short-range program goals and objectives. Serves as the departmental focal point in the areas of prepaid health plan qualification, ongoing regulation, employer compliance efforts, and Medicare HMO and CMP risk contracting. Plans, coordinates, and directs the development and preparation of related legislative proposals, regulatory proposals, and policy documents. Acts as the focal point for all Medicare prepaid health plan research, demonstration, and evaluation study activity in the Department and external to the Department. Develops and implements programs to encourage greater access of Federal Medicare beneficiaries to HMOs and other prepaid health plans. Monitors and analyzes Federal activities and policies regarding Federal beneficiaries in Medicare, CHAMPUS, and the Federal Employees Health Benefits programs. Coordinates the development and implementation of health education and health promotion programs in prepaid health plans. Provides correspondence management for the control of written communications and action documents, including substantive policy review and follow-up to insure timely and appropriate action and clearances. Administers Medicare HMO and CMP contracts, the capitation formula, and reimbursement policies. Oversees the operation of the prepaid health care information system. Determines the amounts of payments to be made to prepaid health plans and the amounts, methods, and frequency of retroactive adjustments. Incorporates a prospective payment system for prepaid health care through the implementation of Tax Equity and Fiscal Responsibility Act risk contracts. Evaluates cost reporting methodologies and conducts a continuing audit program to determine the final program liability for cost contracts. Administers beneficiary enrollment and disenrollment including, coordination with beneficiary groups and other HCFA and HHS components.

• A new Section FM.20, Medicaid Bureau (FM) (Functions) is added to read as follows:

Section FM.20., Medicaid Bureau (FM) (Functions)

Directs the planning, coordination, and implementation of the Medicaid program under title XIX of the Social Security Act and related statutes, as amended. Ensures the development of effective relationships between HCFA and other governmental jurisdictions. Responsible for providing direction for HCFA in the area of intergovernmental affairs, including advising the Administrator on all policy and program matters which affect other HCFA units and various levels of government. Plans and oversees Medicaid quality control financial management systems and national budgets for States. Develops requirements, standards, procedures, guidelines, and methodologies pertaining to the review and evaluation of State agencies' automated systems. Develops, operates, and manages a program for the performance evaluation of Medicaid State agencies and fiscal agents. In cooperation with the Office of the General Counsel, coordinates litigation affecting the Medicaid program, and conducts Medicaid hearings on behalf of the Secretary or Administrator that are not within the jurisdiction of Department Appeals Board, OHA, SSA or the States.

• Section FG.20., Office of the Associate Administrator for Communications (FG) (Functions), is amended to delete references to intergovernmental affairs activities. The responsibility for those activities has been transferred to the new Medicaid Bureau. The new Section FG.20. will read as follows:

Section FG.20., Office of the Associate Administrator for Communications (FG) (Functions)

The Associate Administrator for Communications is responsible for the effective direction and implementation of HCFA policies, rules, and procedures in the areas of: liaison with external medical, dental, and allied health practitioners, institutional providers of health services, and academic institutions responsible for the education of health care professionals; advising the Administrator, HCFA, and HCFA components concerning the services, requirements, and initiatives relating to HCFA beneficiaries and recipients; and directing the public affairs activities of HCFA.

• Section FG.20.B., Office of Public Liaison (FGF), is deleted and replaced by the following amended functional statement which has been amended to delete references to intergovernmental affairs activities. The responsibility for those activities has been transferred to the new Medicaid Bureau. The new Section FG.20.B. reads as follows:

B. Office of Public Liaison (FGF)

Directs and implements HCFA policies, rules, and procedures in the areas of liaison with external medical, dental, and allied health practitioners, institutional providers of health services, and business and academic institutions responsible for the education of health care professionals. Advises the Associate Administrator for Communications (AAC) and HCFA components concerning the services, requirements, and initiatives relating to HCFA beneficiaries and recipients.

• Section FP.10., Office of the Associate Administrator for Operations (Organization), is replaced by an amended statement to reflect the abolishment of the Bureau of Quality Control. The new Section FP.10. reads as follows:

Section FP.10., Office of the Associate Administrator for Operations (Organization)

The Office of the Associate Administrator for Operations (OAAO), under the leadership of the Associate Administrator for Operations, includes:

A. Bureau of Program Operations (FPA)
B. (Reserved)

C. Health Standards and Quality Bureau (FPE)
D. Offices of the Regional Administrators (FPD)

• Section FP.20., Office of the Associate Administrator for Operations (FP) (Functions), is deleted and replaced by the following updated functional statement. The statement is amended to reflect the transfer of Central Office responsibility for Medicaid activities to the new Medicaid Bureau. The Regional Offices' Divisions of Medicaid will continue to be the focal points for HCFA's Medicaid operations in the Regions. The new functional statement for the Office of the Associate Administrator for Operations reads as follows:

Section FP.20., Office of the Associate Administrator for Operations (FP) (Functions)

The Associate Administrator for Operations (AAO) is responsible for the effective direction, coordination, and implementation of all aspects of Central Office and regional program operations, including the Medicare financial management systems; the development, negotiation, execution and management of contracts with Medicare contractors; enforcement of health quality and safety standards for providers and suppliers of health care services; conduct of professional review and other medical review programs; the evaluation of contractors and State agencies against performance standards; and the statistically based quality control programs which measure the financial integrity of Medicare. The 10 Regional Administrators report to the AAO through the Deputy Associate Administrator for Operations.

• Section FP.20.A., Bureau of Program Operations (FPA), is replaced by the following updated functional statement which has been modified to reflect the transfer of responsibility for Medicare quality control prorams to this Bureau. The new Section FP.20.A. reads as follows:

A. Bureau of Program Operations (FPA)

Provides direction and technical guidance for the nationwide administration of HCFA's health care financing programs. Develops, negotiates, executes, and manages contracts with Medicare contractors. Manages the Medicare financial management system and national budgets for Medicare contractors. Establishes national policies and procedures for the procurement of claims processing and related services from the private sector. Defines the relative responsibilities of all parties in health care financing operations and designs the operational systems which link these parties. Directs the establishment of standards of performance for contractors. Compiles operational and performance data for recurring and special reports to reflect status and trends in program operations effectiveness. Prepares recommendations regarding terminations, awards, penalties, nonrenewals, or other appropriate contract actions. Establishes national policy and procedures for the recovery of overpayments. Directs the processing of part A beneficiary appeals and issues instructions and guidance for resolving beneficiary overpayments. Operates statistically based quality control programs and conducts problem-focused assessments in the areas of claims payment, institutional reimbursement, eligibility, third-party liability, and utilization control, and develops similar additional quality control programs which measure the financial integrity of Medicare operations. Following coordination with pertinent HCFA components, notifies carriers and fiscal intermediaries of findings resulting from quality control programs. Makes recommendations to the Associate Administrator for Operations regarding financial penalties authorized and determined appropriate under regulations. Assists Medicare contractors in improving the management of Federally required quality control programs. Identifies significant trends and priority problems through comprehensive analyses of program operations and performance and evaluates findings surfaced through various assessment programs. Develops and conducts comprehensive analyses and studies of selected areas of policy and operations to evaluate the appropriateness, cost effectiveness, or other impact resulting from the implementation of law, regulations, policies, or operational procedures and systems. Develops recommendations for specific policy or operational improvements based on assessment findings. Coordinates, monitors, and evaluates all corrective action initiatives resulting from program assessment findings. Develops program-wide policies, regulations, procedures, guidelines, and studies dealing with program oversight and improvement.

• Section FP.20.B., Bureau of Quality Control (FPC), is deleted in its entirety. This Bureau is abolished. The Medicaid functions are transferred to the new Medicaid Bureau. The remaining functions are transferred to the Bureau of Program Operations.

• Section FQ.20., The Office of the Associate Adinistrator for Program Development (FQ) (Functions), is deleted and replaced by the following updated functional statement which reflects the transfer of responsibility for Medicaid policy development to the new Medicaid Bureau. The new Section FQ.20. reads as follows:

Section FQ.20. The Office of the Associate Administrator for Program Development (FQ) (Functions)

The Associate Administrator for Program Development is responsible for the effective direction and implementation of the development and review of Medicare policies and regulations pertaining to all HCFA programs and HCFA's research and demonstrations activities.

• Section FQ.20.A., Bureau of Policy Development (FQA), is deleted and replaced by an updated section to read as follows:

A. Bureau of Policy Development (FQA)

Establishes national program policy on all issues of Medicare payment including provider payment policy, provider accounting and audit policy, and physician and medical services payment policy. Develops, evaluates, and reviews national policies and standards concerning the coverage and utilization effectiveness of items and services under the Medicare program provided by hospitals, long-term care facilities, hospices, End Stage Renal Disease facilities, home health agencies, alternative health care organizations, comprehensive outpatient rehabilitation facilities, physicians, health practitioners, clinics, laboratories, and other health care providers and suppliers. Serves as the principal organization within HCFA for evaluating the medical aspects of Medicare coverage issues and for health quality and safety standards. Develops, evaluates, and reviews national coverage issues concerning the amount, duration, scope, reasonableness, and necessity for medical and related services. Develops, interprets, and evaluates program policies pertaining to Medicare eligibility. Develops regulations for the Medicare and Medicaid programs. In cooperation with the Office of the General Counsel, coordinates litigation affecting the Medicare program.

Dated: March 6, 1990.

Louis W. Sullivan,

Secretary, Department of Health and Human Services.

[FR Doc. 90-5630 Filed 3-12-90; 8:45 am]

BILLING CODE 4120-01-M

Public Health Service

National Toxicology Program; Chemicals (8) Nominated for Toxicological Studies; Request for Comments

SUMMARY: On January 24, 1990 the Chemical Evaluation Committee (CEC) of the National Toxicology Program (NTP) met to review eight chemicals nominated for in-depth toxicological studies, and to recommend the types of studies to be performed, if any. With this notice, the NTP solicits public comments on the chemicals.

FOR FURTHER INFORMATION CONTACT: Dr. Victor A. Fung, Chemical Selection Coordinator, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register**. The CEC is composed of representatives from the agencies participating in the NTP. This is done to encourage active participation in the NTP chemical evaluation process, thereby helping the NTP to make more informed decisions as to whether to select, defer or reject chemicals for toxicology study. Comments and data submitted in response to this request are reviewed and summarized by NTP technical staff, are forwarded to the NTP Board of Scientific Counselors for use in their evaluation of the nominated chemicals, and then to the NTP Executive Committee for decision-making. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21828), and also in the NTP FY 1988 Annual Plan, pages 16-19.

On January 24, 1990, the CEC met to evaluate eight chemicals nominated to the NTP for in-depth toxicological studies. The following table lists the chemicals, their Chemical Abstract Service (CAS) registry numbers, and the types of toxicological studies recommended by the CEC at the meeting.

Chemical	CAS registry No.	Committee recommendations
Bisphenol A diglycidyl ether.	1675-54-3	Carcinogenicity studies by industry through EPA test rule.
2-Bromo-2-nitropropane-1,3-diol.	51-52-7	No testing.
Cinnamaldehyde	104-55-2	Carcinogenicity.
C.I. Acid Red 97	10169-02-5	Chemical analysis metabolism.
C.I. Acid Red 111.	6358-57-2	No testing.
C.I. Basic Brown 1.	1052-38-6	Carcinogenicity.
C.I. Basic Brown 2.	6358-83-4	No testing.
C.I. Direct Black 80.	6003-69-8	Dermal absorption.

Three of the eight chemicals were previously selected for toxicology studies by the NTP. Bisphenol A diglycidyl ether was mutagenic in *Salmonella*, and was positive for chromosomal aberrations and sister chromatid exchanges in Chinese hamster ovary cells in culture. Cinnamaldehyde was weakly positive in *Salmonella*; positive for sex-linked recessive lethal mutations and negative for reciprocal translocations in *Drosophila*; negative for chromosomal aberrations and positive for sister chromatid exchanges in Chinese hamster ovary cells in culture. It is currently on test in the mouse lymphoma assay. No maternal toxicity or adverse reproductive effects were observed in a short-term *in vivo* reproductive toxicity study of cinnamaldehyde. Acute feeding studies of cinnamaldehyde have been completed. 2-Bromo-2-nitro-propane-1,3-diol is on test in *Salmonella*.

The CEC also reviewed and selected 10% carbamide peroxide in anhydrous glycerine base for mutagenicity studies in *Salmonella*. The CEC serves as the selecting mechanism for the chemicals nominated solely for NTP genotoxicity studies.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Modes of production, present production levels, and occupational exposure potential.

(2) Uses and resulting exposure levels, where known.

(3) Completed, ongoing and/or planned toxicologic testing in the private sector including detailed experimental protocols and results, in the case of completed studies.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by April 12, 1990, to Dr. Fung. Any submissions received after the above date will be accepted and utilized where possible.

Dated: March 6, 1990.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 90-5688 Filed 3-12-90; 8:45 am]

BILLING CODE 4140-01-M

Statement of Organization, Functions and Delegations of Authority

Notice is hereby given that on January 8, 1990, the Secretary granted to the Assistant Secretary for Health specific authorities for the emergency preparedness functions for the Department and the Public Health Service. These authorities are vested in the Secretary by the National Security Act of 1947, as amended; Defense Production Act of 1950, as amended; Federal Civil Defense Act of 1950, as amended; Disaster Relief Act of 1974, as amended; and Executive Order 12656. They include the authorities to: (a) Develop national plans and programs and take actions necessary to assure that PHS headquarters and regional organizations will be able to perform their essential functions and continue as a viable part of the Department during any national emergency, and will be able to respond to major disasters; (b) direct, coordinate, and monitor the performance of the heads of the Staff and Operating Divisions, and the Regional Directors in carrying out the emergency preparedness responsibilities assigned to them; and (c) prepare national emergency plans and develop preparedness programs covering functions and responsibilities which must necessarily be centralized for the Department. The authorities contained in (b) and (c) may not be redelegated.

Specific requirements for the performance of these authorities are contained in relevant Parts of Executive Order 12656, in sections 302 and 306 of the Disaster Relief Act of 1974, and in the HHS Emergency Planning and Operations Manual.

This delegation supersedes the December 21, 1981 delegation of emergency preparedness functions to the Assistant Secretary for Health.

Dated: March 2, 1990.

Kevin E. Moley,

Assistant Secretary for Management and Budget.

[FR Doc. 90-5631 Filed 03-12-90; 8:45 am]

BILLING CODE 4160-17-M

Indian Health Service; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), chapter HG, Indian Health Service (IHS), 52 FR 47053–67, December 11, 1987, as most recently amended at 54 FR 4085–91, January 27, 1989, is amended to reflect the establishment of an organizational substructure for the Albuquerque Area Office to more accurately reflect current activities in the Area Office.

Under *chapter HG, Section HG–20, Functions,* after the statement for the *IHS Area Offices (HGF), Information and Resources Management Programs,* insert the following:

Albuquerque Area Office (HGFD).

Office of the Area Director (HGFD1). (1) Plans, develops and directs the Area Program within the framework of the IHS policy in pursuit of the mission; (2) delivers and ensures the delivery of high quality comprehensive health services; (3) coordinates IHS activities and resources internally and externally with those of other Government and non-governmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) ensures the full application of the principles of Indian preference and Equal Employment Opportunity (EEO); and (6) participates with Indian tribes and other Indian community groups in developing optimal goals and objectives for health care delivery for the Albuquerque Area IHS.

Office of Administration and Management (HGFD2). (1) Plans, implements, directs, coordinates and evaluates the Area's administration and management activities which include Financial Management; Personnel Management; Contract and Grant Management; Property and Supply Management; Office Services Management; and Contract Health Services; (2) recommends and develops policies and procedures for various management activities; (3) provides Area administrative management services with policies and by general directives from the Area Director; (4) recommends changes in administrative policies and management practices to achieve and carry out Area objectives; (5) establishes, maintains, and promotes liaison with community, tribal, civic groups, professional organizations, colleges, universities, and other agencies, as appropriate; (6) keeps abreast with current developments of tribal health activities as they relate to program support services; (7) serves as principal advisor to the Area Director for administration and management matters; and (8) implements EEO activities.

Office of Environmental Health and Engineering (HGFD3). (1) Plans, implements, directs, coordinates, assesses and evaluates the Area environmental health and engineering programs, which include facilities management; sanitation facilities construction: and environmental health services; (2) participates in policy formulation, implementation and resource distribution; (3) coordinates activities designed to prevent diseases and disability, promotes health and protects and maintains a safe and healthful environment within IHS facilities and in Indian communities; (4) provides advisory, consultative, and training services regarding the physical environment, current state-of-the-art practices, and human behavior that will promote, improve, maintain and protect a safe and healthy environment; (5) constructs, improves, extends or otherwise provides essential sanitation facilities in Indian homes and communities; (6) constructs, maintains and improves health facilities within the Albuquerque Area IHS; (7) maintains liaison and coordinates environmental activities with tribes, Area programs, State and local governments and other outside qroups; and (8) participates in the development of the total Area program.

Office of Planning, Evaluation, and Information (HGFD4). (1) Develops program planning, analysis, and evaluation methodologies for the Area: (2) coordinates planning, analysis, and evaluation activities; (3) recommends goals, objectives, and priorities; (4) prepares resource allocation information documents; (5) identifies and analyzes unmet health needs; (6) prepares statistical analysis of Area inpatient and outpatient workload; (7) prepares and maintains resource requirement methodology documents; (8) coordinates program and health facilities planning (staffing/space/materiel); (9) assists tribes with health planning, analysis and evaluation activities; (10) provides advice on Area policies and procedures related to data processing, computer software, computer equipment, telecommunications, and word processing; (11) provides technical support on word and data processing service to the Area and Service Units; (12) provides data entry services to various programs; (13) assesses Area needs for information technology, advises on alternatives, prepares justification and requests necessary procurement actions; (14) provides training for Area personnel to improve utilization and understanding of information technologies; and (15) works with Data Processing Service Center (DPSC), IHS Headquarters, to design and develop systems that are responsive to Area needs.

Office of Hospital/Ambulatory Care Programs (HGFD5). (1) Plans, implements, directs, coordinates and evaluates the patient care programs throughout the Albuquerque Area IHS health care delivery area; (2) provides guidance and supervision to the biomedioal engineering, hospital and ambulatory nursing care, oral health, dietetic, medical records, eye care, pharmacy, clinical laboratory, radiology, and quality assurance programs; (3) coordinates the Albuquerque Area IHS Medicare/Medicaid Program; (4) maintains and promotes liaison with: Indian health boards, professional organizations, colleges, and universities as they relate to Area patient care programs.

Office of Tribal Activities (HGFD6). (1) Plans, implements, coordinates, and evaluates tribal health programs; (2) provides direction, guidance. and technical assistance to Public Law 93–638 Indian Self-Determination, Community Health Representatives, Emergency Medical Systems, and scholarship programs; (3) provides tribal liaison for Area-wide activities; (4) assists tribes and/or communities in the identification of health services delivery and coordination of resources; (5) advises the Area Director on tribal programs and health development activities; (6) promotes tribal involvement in health programs; (7) provides guidance on training to tribal employees; (8) guides and assists Area project officers; (9) provides technical assistance to tribal organizations in the development of Pub. L. 93–638 projects, proposals, and progress of contracts and grants; (10) provides information on policy and program implication for Indian populations and tribal groups; and (11) identifies and coordinates tribal organizational resources.

Office of Preventive Health Programs (HGFD7). (1) Promotes quality health habits and lifestyles; (2) evaluates and monitors the Area preventive health programs to promote compliance with

national PHS and IHS standards and objectives; (3) provides guidance and supervision to the substance abuse, community health education, public health nursing, maternal and child health, community mental health, public health nutrition, and social work service programs; (4) identifies and establishes standards, and reviews and monitors Area-wide, Service Unit, and tribal programs against these standards; (5) identifies program deficiencies and problems, recommends corrective actions, and monitors the implementation of the actions; and (6) promotes and ensures effective linkages with Office of Hospital/Ambulatory Care Programs, tribally-operated programs, and health related activities sponsored by other agencies and organizations.

Albuquerque Area Service Units (HGFDA Through HGFDE and HGFDG)

Albuquerque Service Unit (HGFDA); Mescalero (HGFDB); Santa Fe Service Unit (HGFDC); Zuni Service Unit (HGFDD); Acoma-Canoncito-Laguna Service Unit (HGFDE); Southern Colorado Ute Service Unit (HGFDG). (1) Plans, develops, and directs health programs within the framework of IHS policy and mission: (2) promotes activities to improve and maintain the health and welfare of the service population; (3) delivers quality health services within available resources; (4) coordinates Service Unit activities and resources with those of other governmental and non-governmental programs; (5) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; (6) provides Indian tribes and other Indian community groups with optimal means of participating in Service Unit programs; and (7) encourages and supports the development of individual and tribal entities in the management of the Service Unit.

Under *Section HG-30, Order of Succession*, following item number (4) add:

During the absence or disability of the Area Director of the Albuquerque Area Office, or in the event of a vacancy in that office, the first Area Office official listed below who is available shall act as the Area Director, except that during a planned period of absence, the Area Director may specify a different order of succession. The order of succession will be:

(1) Deputy Director/Chief Medical Officer;

(2) Executive Officer;

(3) Associate Director, Office of Ambulatory/Hospital Care Programs;

(4) Associate Director, Environmental Health and Engineering Programs;

(5) Associate Director, Office of Tribal Activities; and

(6) Director, Division of Financial Management.

Section HG-40 Delegations of Authority. Add the following new paragraph:

All delegations and redelegations of authority made to IHS Area Offices which were in effect immediately prior to this reorganization, and which are consistent with the reorganization of January 18, 1989, shall continue in effect pending further redelegation.

Dated: March 2, 1990.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 90-5613 Filed 3-12-90; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-90-3036; FR-2793-N-01]

Public Housing Drug Elimination Program: Announcement of Grantees Selected for Funding—FY 1989

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of Public Housing Drug Elimination Program Grantees Selected for Funding in FY 1989.

SUMMARY: HUD published a notice in the **Federal Register** on September 18, 1989 to announce the availability of $8.2 million in grant funds, to be used in a manner consistent with the requirements of the Public Housing Drug Elimination program under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, approved November 19, 1988). Under this program, public housing agencies (PHAs) and Indian Housing Authorities (IHAs) compete for grant funds to undertake certain activities related to the elimination of drug-related crime in public housing projects. The purpose of this notice is to publish in the **Federal Register** the names and addresses of grantees selected for funding in FY 1989 under the Public Housing Drug Elimination program.

EFFECTIVE DATE: March 13, 1990.

FOR FURTHER INFORMATION CONTACT: Howard Mortman, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4110, Washington, DC 20410, telephone (202) 755-9101. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Public Housing Drug Elimination program is authorized by chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, approved November 19, 1988) ("the Act"). The Act authorizes HUD to make grants to PHAs and IHAs to eliminate drug-related crime in selected public housing projects.

On September 18, 1989, HUD published a notice of fund availability (NOFA) to announce the availability of $8,200,000 in grant funds appropriated by the Dire Emergency Supplemental Appropriations Act (Pub. L. 101-45, approved June 30, 1989) (54 FR 38496), to be used in a manner consistent with the requirements of the Act.

In response to the notice of fund availability, 37 housing authorities will receive $8.2 million from HUD to assist in the elimination of drug-related crime in public housing projects. Under the Act, housing authorities may use these grant funds for: (1) Employment of security personnel and investigators; (2) reimbursement of local law enforcement agencies for the cost of providing additional security and protective services; (3) physical improvements designed to enhance security; (4) support of public housing tenant patrols acting in cooperation with local law enforcement agencies; (5) innovative programs to reduce drug use in and around public housing projects; and (6) funding of Resident Management Corporations and Resident Councils to develop security and drug abuse prevention programs involving site residents.

Accordingly, as required by section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, (Pub. L. 101-235, approved December 15, 1989), HUD is publishing in the **Federal Register** the names and addresses of the grantees selected for funding for FY 1989 under the Public Housing Drug Elimination program, to read as follows:

Awardees under the FY '89 Public Housing Drug Elimination Program

Mr. James R. Alexander, Jr., Secretary-Executive Director, Mobile Housing Board, 151 South Claiborne Street, Mobile, Alabama 36633-1345—$250,000

Mr. J. C. Miller, Jr., Executive Director, The Housing Authority of the City of Montgomery, 1020 Bell Street, Montgomery, Alabama 36197-3501—$250,000

Mr. Dendy M. Rousseau, Executive Director, The Housing Authority of the City of Huntsville, Alabama, 200 Washington Street, Huntsville, Alabama 35804—$185,515

Mr. Leon Hunter, Executive Director, Housing Authority of the City of Richmond, 330 24th Street, Richmond, California 94808—$250,000

Mr. Thomas M. Crawford, Acting Executive Director, Housing Authority of the Town of Greenwich, P.O. Box 141, Greenwich, Connecticut 06836—$83,650

Mr. Curtis O. Law, Executive Director, Housing Authority of the City of Norwalk, 24½ Monroe Street, South Norwalk, Connecticut 06856-0508—$250,000

Mr. John E. Cherry, Executive Director, Gainesville Housing Authority, P.O. Box 1468, Gainesville, Florida 32602—$250,000

Mr. James M. Sweeney, Executive Director, The Housing Authority of the City of Fort Myers, Florida, 4224 Michigan Avenue, Fort Myers, Florida 33916—$250,000

Mr. Leroy Hill, Interim Executive Director, Tallahassee Housing Authority, 2940 Grady Road, Tallahassee, Florida 32312—$250,000

Mr. John H. Hiscox, Executive Director, Macon Housing Authority, P.O. Box 4928, Macon, Georgia 31208—$250,000

Mr. Richard E. Collins, Executive Director, Housing Authority of Savannah, 200 East Broad Street, Savannah, Georgia 31402—$224,868

Mr. J. Richard Parker II, Executive Director, Housing Authority of the City of Athens, 259 Waddell Street, Athens, Georgia 30603—$163,225

Mr. Michael J. Fisher, Executive Director, Housing Authority of Kansas City, Missouri, 299 Paseo, Kansas City, Missouri 64106—$250,000

Mr. Paul T. Graziano, Executive Director, Manchester Housing Authority, 198 Hanover Street, Manchester, New Hampshire 03104—$237,540

Mr. Felix Raymond, Executive Director, Housing Authority of the City of Paterson, 160 Ward Street, Paterson, New Jersey 07509—$239,775

Mr. Robert J. Rigby, Executive Director, Housing Authority of the City of Jersey City, 400 U.S. Highway #1, Jersey City, New Jersey 07306—$250,000

Dr. Daniel W. Blue, Jr., Executive Director, Housing Authority of the City of Newark, 57 Sussex Avenue, Newark, New Jersey 07103-3992—$250,000

Mr. Dominic Gallo, Housing Authority of the City of Hoboken, 400 Harrison Avenue, Hoboken, New Jersey 07030—$196,395

Mr. Robert Holman, Acting Chairman, Housing Authority of the City of New Brunswick, P.O. Box 110, New Brunswick, New Jersey 08903—$250,000

Mr. Willis McCartney, Executive Director, Glen Cove Housing Authority, 140 Glen Cove Avenue, Glen Cove, New York 11542—$100,000

Ms. Sharon A. Jordan, Executive Director, Schenectady Municipal Housing Authority, 375 Broadway, Schenectady, New York 12305—$250,000

Mr. Thomas F. McHugh, Executive Director, Rochester Housing Authority, 140 West Avenue, Rochester, New York 14611—$244,575

Ms. Carol B. Shepperd, Assistant Executive Director, Syracuse Housing Authority, 516 Burt Street, Syracuse, New York 13202—$249,928

Mr. William E. Shands, Executive Director, Peekskill Housing Authority, 807 Main Street, Peekskill, New York 10566—$100,000

Mr. Peter Smith, Executive Director, Municipal Housing Authority for the City of Yonkers, 1511 Central Park Avenue, Yonkers, New York 10710—$250,000

Ms. Elaine T. Ostrowski, Executive Director, Greensboro Housing Authority, P.O. Box 21287, Greensboro, North Carolina 27420—$250,000

Mr. W. Donald Carroll, Jr., Chairman Board of Commissioners, Housing Authority, of the City of Charlotte, 1301 South Boulevard, Charlotte, North Carolina 28236—$250,000

Mr. James H. Missouri, Jr., Executive Director, Portsmouth Metropolitan Housing Authority, 410 Court Street, Portsmouth, Ohio 45662-3946—$250,000

Mr. Charles A. Matusyznski, Executive Director, Lucas Metropolitan Housing Authority, 435 Nebraska Avenue, Toledo, Ohio 43692—$249,529

Mr. Dennis Guest, Executive Director, Columbus Metropolitan Housing Authority, 960 East Fifth Avenue, Columbus, Ohio 43201-3096—$250,000

Mr. John R. Thorpe, Executive Director, Housing Authority of the Sac & Fox Nation, 526 North Kimberly, Shawnee, Oklahoma 74802-1252—$100,000

Mr. John E. Horan, Executive Director, The Housing Authority of the City of Erie, 606 Holland Street, Erie, Pennsylvania 16501-1285—$250,000

Mr. Fred O. DeBruhl, Sr., Executive Director, Knoxville's Community Development Corporation, P.O. Box 3550, Knoxville, Tennessee 37927-3550—$250,000

Mr. Cary C. Woods, Executive Director, Memphis Housing Authority, P.O. Box 3664, Memphis, Tennessee 38103—$225,000

Mr. G.N. Tompkins, Executive Director, Petersburg Redevelopment and Housing Authority, P.O. Box 311, Petersburg, Virginia 23804-0311—$100,000

Mr. Angus T. Olson, Executive Director, Alexandria Redevelopment and Housing Authority, 600 North Fairfax Street, Alexandria, Virginia 22314—$250,000

Mr. Roger F. Switzer, Executive Director, Housing Authority of the City of Charleston, P.O. Box 86, Charleston, West Virginia 25321—$250,000

Dated: February 23, 1990.

Michael B. Janis,

General Deputy Assistant Secretary.

[FR Doc. 90-5712 Filed 3-12-90; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana; Meeting the Miles City District Grazing Advisory Board

AGENCY: Bureau of Land Management, Miles City District Office, Interior (MT-020-09-4320-02).

ACTION: Notice of meeting.

SUMMARY: The Miles City District Grazing Advisory Board will meet April 17, 1990, at 10 a.m. in the District Office Conference Room on Garryowen Road at Miles City, Montana.

The agenda for the meeting will include:

(1) Weed Control Funding.

(2) Range Improvement Funding Policy.

(3) Other Range Policy Issues.

The meeting is open to the public. The public may make oral statements or file written statements for the Board to consider. Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Sandra Sacher,

Associate District Manager.

[FR Doc. 90-5728 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-DN-M

[NV020-4351-02]

Winnemucca District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Winnemucca District Advisory Council Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Winnemucca District Advisory Council will be held on Thursday April 19, 1990. The meeting will be from 10 a.m. to 3: 30 p.m. in the conference room of the Bureau of Land Management Office at 705 E. 4th Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include:

1. Soldier Meadows Ranch Exchange/Acquisition proposal.

2. Proposed Bighorn Sheep Transplant into the Montana Double H mountains.

The meeting is open to the public. Interested persons may make oral statements to the council at 2 p.m. or file

written statements for the councils consideration. Anyone wishing to make an oral statement must notify the District Manager by April 17, 1990. Depending on the number of persons to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: March 2, 1990.

Les Boni,

Acting District Manager.

[FR Doc. 90-5728 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-HC-M

[U-942-00-4214-10; U-30766]

Cancellation of Proposed Withdrawal and Reservation of Land; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice cancels, in its entirety, a proposed withdrawal of national forest system lands for use by the U.S. Forest Service for administrative and recreational purposes in the Manti-LaSal National Forest. This action will open the lands to such forms of disposition as may by law be made of national forest system lands, including mineral location and entry under the United States Mining Laws.

EFFECTIVE DATES: April 12, 1990.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, BLM Utah State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, (801) 539-4119.

SUPPLEMENTARY INFORMATION: 1. Notice of the United States Department of Agriculture, Forest Service application U-30766 for the withdrawal and reservation of public land from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, was published in the Federal Register on September 17, 1975 (40 FR 181, pages 42907 and 42908). The Forest Service has canceled its application in its entirety as to the following described land:

Salt Lake Meridian

T. 17 S., R. 6 E.,
- Sec. 19, lots 15, 16, S½SE¼;
- Sec. 20, S½SW¼;
- Sec. 29, W½;
- Sec. 30, lots 1, 2, 7, 8, 9, 10, 15, 16, E½;
- Sec. 31, lots 1, 2, 3, 4, 7, 8, 9, 10, 13, 14, 15, and 16, E½;
- Sec. 32, E½W½.

T 18 S., R. 6 E.,
- Sec. 5, lots 1 to 4 inclusive, N½ lots 5 and 6, lots 7, 8, S½NE¼, SE¼;
- Sec. 6, lots 1 to 11 inclusive, SE¼NW¼, E½SW¼, that part of the NW¼SE¼ described as follows: Beginning at the SW corner of the NW¼SE¼, thence northerly along the west line of said NW¼SE¼, 1,129 feet to a point; thence S. 36°01' E., 10.12 feet to a point; thence along the arc of a curve to the right with a radius of 2,804.79 feet an arc distance of 205.60 feet to a point; thence S. 31°49' E., 1,117.32 feet to a point on the south line of the NW¼SE¼; thence westerly 708.64 feet along said line to the SW corner of the NW¼SE¼ to the place of beginning; SW¼SE¼.
- Secs. 6 and 7, a tract of land in the SE¼SE¼ sec. 6, and N½NE¼ sec. 7, described as follows: Beginning at the quarter corner common to sec. 6 and 7; thence from said point of beginning easterly 1,320 feet along the north line of the NW¼NE¼ sec. 7 to the NE corner of the NW¼NE¼ said sec. 7; thence northerly 331.74 feet along the west line of the SE¼SE¼ sec. 6 to a point; thence S. 31°49' E, 809.88 feet to a point; thence along the arc of a curve to the left wtih a radius of 272.21 feet an arc distance of 298.60 feet to a point; thence N. 65°21' E. 63.00 feet to a point; thence along the arc of a curve to the right with a radius of 67.32 feet an arc distance of 104.47 feet to a point; thence S. 05°49' E., 297.81 feet to a point; thence along the arc of a curve to the right with a radius of 2,804.79 feet an arc distance of 318.19 feet to a point; thence S. 00°45' W, 165.64 feet to the south line of the NE¼NE¼ sec. 7; thence westerly 855.46 feet along the said south line of the NE¼NE¼ to the SW corner thereof; thence westerly 1,320 feet along the south line of the NW¼NE¼ sec. 7 to the SW corner thereof; thence northerly 1,320 feet along the west line of the NW¼NE¼ sec. 7 to the NW corner thereof to the point of beginning;
- Sec. 7, W½W½E½NW¼, E½SW¼, SE¼;
- Sec. 8, W½NE¼, NE¼NW¼, S½NW¼, SW¼, W½SE¼.

The areas described aggregate 3,923.53 acres more or less in Emery County, Utah.

2. At 7:45 a.m., on April 12, 1990, the lands shall be opened to such forms of dispositon as may by law be made of national forest system lands, including location under the United States Mining Laws, subject to valid existing rights. Appropriation of any of the lands described in this notice under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local court.

Ted Stephenson,

Chief, Branch of Land and Mineral Operations.

[FR Doc. 90-5695 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-DQ-M

Bureau of Reclamation

Construction of a Shutter-Type Temperature Control Device at Shasta Dam, Central Valley Project, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of the Interior, Bureau of Reclamation (Reclamation), will prepare an environmental impact statement (EIS) on a proposal to construct a temperature control device at Shasta Dam. This device would be an integral part of the Central Valley Project to permit selective withdrawal of water from Shasta Lake to provide operational flexibility to control temperature, turbidity, and dissolved oxygen. The main purpose of the device would be to improve temperature conditions in the Sacramento River below Shasta Dam for the increased survival of anadromous fish.

A range of alternatives will be considered in the EIS. In addition to construction of the shutter-type temperature control device, other alternatives will include construction of a temperature control curtain, bypass of water around the electrical generating units, and no action. A discussion of alternatives considered by Reclamation but eliminated from detailed study will also be included in the document.

The U.S. Fish and Wildlife Service, the National Marine Fishery Service, and the California Department of Fish and Game will assist Reclamation in preparing the environmental documentation.

Reclamation has had intensive public involvement on the proposed project, including a formal scoping meeting held in Redding, California, during August 1988. Concerns identified at the meeting included:

(1) The impact of the device on the growth and spread of undesirable aquatic plants; (2) the entity who would pay for the project and how it would be financed; (3) the question of whether the design being proposed had ever been used before; (4) the effectiveness of the

project downstream of Shasta Dam; (5) the question of whether current bypass operations would affect implementation of the project; and (6) suggestions that an alternative be examined that would result in turbine installation at right angles to the current outlet.

Meetings with power and water users, environmental groups, and State and Federal agencies were subsequently conducted after the scoping meeting to discuss proposed engineering changes and financing of the structure.

In addition to these meetings, Reclamation has scheduled two additional workshops to solicit information from interested public entities and persons in determining the scope of the EIS and significant issues related to the alternatives identified. Comments gathered as a result of these efforts, along with those received earlier, will be considered in the environmental analysis and documentation.

DATES AND LOCATIONS: There will be two public meetings held at the following times and locations:

- Thursday, March 29, 1990, from 7 to 10 p.m. at the Holiday Inn, Fairmont Room, 1900 Hilltop Drive, Redding, California.
- Monday, April 2, 1990, from 1 to 5 p.m. at the Sheraton Sunrise Hotel, Newport Room, 11211 Point East Drive, Rancho Cordova, California.

FOR FURTHER INFORMATION CONTACT: Colette Diede, Program Manager (MP-720), telephone (916) 978-4956, or Doug Kleinsmith, Environmental Specialist (MP-750), telephone (916) 978-5121, at 2800 Cottage Way, Sacramento, California 95825.

SUPPLEMENTARY INFORMATION: The upper Sacramento River is a large free-flowing perennial river that provides spawning and nursery habitat for anadromous chinook salmon and steelhead trout. This river is the largest and most important salmonid stream in California, providing more spawning habitat for chinook salmon than any other river in California.

The spawning population of chinook salmon and steelhead trout in the upper Sacramento River has declined steadily since the 1960's. The fall-run chinook population, the largest run, declined 56 percent between the late 1960's to the early 1980's; and the winter-run declined 92 percent over the same period. Steelhead trout runs have declined by 77 percent during the same time period.

The most precipitous decline in salmon populations has been recorded in the winter-run chinook salmon. Since counts were initiated in 1967, the winter-run has declined from approximately 84,000 fish to 3,000. The California Department of Fish and Game has estimated the return of winter-run chinook salmon to the Sacramento River in 1989 to be about 500 fish. As a result, in May 1989 the Sacramento River basin winter-run chinook salmon was designated a "threatened species" under the Federal Endangered Species Act and classified "endangered" by the State of California.

One of the major factors restraining winter-run population levels is inadequate water temperatures to sustain egg survival below Shasta Dam. Especially in drought years or after a series of "dry" years, Shasta Lake is left with low cold-water reserves. During these periods, the supply of cool water available from ordinary lake outlets is insufficient to release into the river to sustain appropriate temperatures throughout the egg incubation season. Without some accommodation from Reclamation, river water temperatures can rise above 57.5 degrees Fahrenheit to lethal levels. In 1988, Reclamation bypassed almost 400,000 acre-feet of water through low-level outlets around its power turbines to provide cool water, thus foregoing $3,650,000 in power revenue. A permanent solution to the temperature problem is needed, and Reclamation is examining a number of alternatives that would improve production of salmon populations in dry and critically dry years.

The EIS will include the geographic area contiguous to the upper Sacramento River between Shasta Dam and Red Bluff. Portions of Shasta and Tehama Counties, California, would be included in the study.

Dated: March 7, 1990.

Dennis E. Schroeder,

Deputy Assistant Commissioner, Engineering and Research.

[FR Doc. 90-5694 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Receipt of an Endangered Species Permit Application for Take of Desert Tortoises in Clark County, Nevada, and Availability of an Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service (Service) has received an application for an endangered species permit to take desert tortoises [Gopherus (=Scaptochelys;=Xerobates) agassizii] for the purpose of scientific research. The application was submitted jointly by the Nevada Department of Wildlife, the Nature Conservancy, and the U.S. Department of Interior, Bureau of Land Management (BLM).

The applicants propose to take desert tortoises to conduct research on the desert tortoise Upper Respiratory Disease Syndrome (URDS), a highly contagious respiratory disease spreading through the Mojave population of desert tortoise, and other conservation biology studies. The tortoises would be removed from 12 specified areas in Clark County, Nevada, 11 of which were undergoing development on August 4, 1989, the date the Mojave population of the tortoise was emergency-listed as endangered under the U.S. Endangered Species Act (Act).

An Environmental Assessment (EA) has been prepared on the proposed research and permit issuance. The Finding of No Significant Impact (FONSI) will not be signed before 30 days from the date of the publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and EA must be received on or before April 12, 1990.

ADDRESSES: Interested persons may comment on the EA and the permit application by submitting written views, arguments, or data to the Chief, Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507 (courier address 4401 North Fairfax Drive, Arlington, Virginia 22201). Please refer to the file number PRT-747182/NDOW-TNC-BLM when submitting comments.

FOR FURTHER INFORMATION CONTACT: Individuals wishing a copy of the EA and/or permit application for review should immediately contact Susan Lawrence, Acting Chief, Branch of Permits, Office of Management Authority, at the above address or by telephone (703/358-2104 or FTS 921-2104).

SUPPLEMENTARY INFORMATION: On August 4, 1989, the Service published an emergency rule in the Federal Register designating the Mohave population of the desert tortoise as endangered under the Act. Such listing was based on a determination that the species is endangered by a highly contagious respiratory disease (Upper Respiratory Disease Syndrome—URDS) that is causing large-scale die-offs in the western Mohave Desert. This situation is in addition to a continuing decline

caused by other factors such as continued loss of habitat and drought conditions. The emergency listing is effective for a period of 240 days, and all provisions of the Act came into full force and effect as of the emergency listing date.

On October 13, 1989, the Service officially proposed the Mojave population for endangered status (Federal Register Vol. 54, No. 197). The Service is presently reviewing the available data and public input received.

Subsequent to the emergency listing of the species, a lawsuit was filed against the Service by several parties involved in development of properties at the time of the emergency listing charging that the listing should not apply to development underway on the listing date. However, the U.S. Court of Appeals determined that the emergency listing applied to all actions that could affect the species.

The permit applicants require approximately 871 desert tortoises for the proposed research. Therefore, the applicants propose to remove all the tortoises from the properties of the plaintiffs for use in the studies. Funding for the research, including construction of a Desert Tortoise Conservation Center on BLM land, will be provided by the landowners from whose properties the tortoises will be removed, after which construction could resume.

The applicants propose take up to 871 desert tortoises from 11 private parcels, totaling 7,004 acres, and 1 BLM parcel, totaling 640 acres, for use in the research program. The 11 private parcels, which have been inspected and deemed no longer viable as long-term desert tortoise habitat, are estimated to support between 312 and 1,060 tortoises. An estimated 10 to 20 tortoises will be removed from BLM property, determined to be good tortoise habitat, to accommodate construction of the Desert Tortoise Conservation Center which will occupy 160 to 200 acres of the 640-acre parcel.

In addition to the tortoises removed from the development sites, the applicants propose to take (harass) up to 60 free-ranging, wild tortoises in the course of reproductive biology and nutrition studies. Activities would include radio tagging, periodic relocation, blood sampling, and ultrasound monitoring of reproductive status. The field studies will allow calibration of the laboratory studies against wild tortoise values.

The Desert Tortoise Conservation Center which will be constructed for the holding and care of tortoises and for conducting research. The Center will occupy 160–200 acres. It will be managed cooperatively by the Service, BLM and the applicant (Nevada Department of Wildlife) as all three agencies have direct responsibilities for oversight of the species.

The following research is proposed: (1) Research on the Upper Respiratory Disease Syndrome, including identification of the pathogen(s) and mode(s) of transmission of the disease; and (2) Integrated applied conservation biology, including (a) identification of critical biological measures for assessment of potential impacts of cattle grazing on desert tortoises; (b) determination of nutritional components of natural desert tortoise diets and laboratory analysis of nutritional requirements; (c) reproductive biology of desert tortoises—baseline data for management of wild populations and implications of captive breeding; (d) field research component on livestock grazing; and (e) evaluation of barrier designs to reduce loss of tortoises from roads, edges of urban areas, etc.

The research involving URDS will entail lethal take (sacrifice) of up to 96 tortoises, and the reproductive biology studies will entail lethal take (sacrifice) of up to 150 tortoises.

The following alternatives to the proposed research were considered and rejected: (1) Conduct research using animals from different locations; (2) Conduct research using fewer animals; (3) No action.

The application includes a draft environmental assessment and biological assessment, the research program, a "Stipulation Agreement" which outlines the funding mechanism for the research program, and a "Desert Tortoise Research Program Agreement" which outlines the cooperative agreement defining responsibilities between the three applicants.

Dated: March 6, 1990.

Susan Lawrence,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 90–5620 Filed 3–12–90; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Outer Continental Shelf; Availability; Proposed Notice of Sale; Western Gulf of Mexico; Oil and Gas Lease Sale 125

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notice of Sale, Western Gulf of Mexico, Oil and Gas Lease Sale 125.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notice of Sale for Sale 125, Western Gulf of Mexico, may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone (504) 736–2519.

The final Notice of Sale will be published in the Federal Register at least 30 days prior to the date of bid opening. Bid opening is scheduled for August 1990.

This Notice of Availability is hereby published, pursuant to 30 CFR 256.29(c), as a matter of information to the public.

Dated: March 6, 1990.

Barry Williamson,

Director, Minerals Management Service.

[FR Doc. 90–5669 Filed 3–7–90; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Park System Advisory Board: Meeting

AGENCY: National Park Service.

ACTION: Notice of Meeting of History Areas Committee of Advisory Board.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board will be held at 9 a.m. at the following location and date.

DATE: April 3, 1990.

LOCATION: 12th Floor Conference Room 12126, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Benjamin Levy, Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Telephone (202) 343–8164, or FTS 343–8164.

SUPPLEMENTARY INFORMATION: The purpose of the History Areas Committee of the Secretary of the Interior's National Park System Advisory Board is to evaluate studies of historic properties in order to advise the full National Park System Advisory Board meeting on April 25, 1990 of the qualifications of properties being proposed for National Historic Landmark designation, and to recommend to the full Board those properties that the Committee finds

meet the criteria of the National Historic Landmarks Program. The members of the History Areas Committee are:

Dr. Holly Anglin Robinson, Chairperson,
Mr. Robert Burley,
Dr. Alfonz Lengyel,
Mrs. Anne Walker,
Mrs. Sarah Kim.

The meeting will include presentations and discussions on the national historic significance and the integrity of a number of properties being nominated for National Historic Landmark designation. These nominations include 5 properties being considered for archeology located in Alabama, Arizona, Florida, North Carolina, and Ohio; 5 maritime resources located in Louisiana, Massachusetts, New York, Texas and Washington, DC; 6 architectural properties located in Alabama, New York, Pennsylvania, and West Virginia; 7 sites in Ohio relating to a Wright Brothers theme study; a Civil War site in Ohio; an Indian Wars site in Idaho; and a conservation site in Wisconsin.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the Committee a written statement concerning matters to be discussed. Written statements may be submitted to the Senior Historian, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Minutes of the meeting will be available in the office of the History Division, National Park Service, WASO, for public inspection approximately 4 weeks after the meeting.

Dated: March 7, 1990.

Rowland T. Bowers,

Deputy Associate Director, Cultural Resources, National Park Service, WASO.

[FR Doc. 90-5638 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 3, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by March 28, 1990.

Carl D. Shull,

Chief of Registration, National Register.

ARKANSAS

Garland County

Old Post Office, Convention Blvd., Hot Springs, 90000547

CALIFORNIA

El Dorado County

Iahoe Meadows, US 50 between Ski Run Blvd. and Park Ave., South Lake Tahoe, 90000555

Sacramento County

Walnut Grove Commercial/Residential Historic District, Browns Alley and River Rd., Walnut Grove, 90000551

Shasta County

Frisbie, Edward, House, 1246 East St., Redding, 90000550

GEORGIA

Cook County

Sowega Building, 100 S. Hutchinson Ave., Adel, 90000546

Greene County

Moore—Crutchfield Place, GA 15, SE of Siloan, Siloan, 90000549

IDAHO

Kootenai County

Mullan Rod, 3 segments: (1) between Aldar Creek and Cedar Creek; (2) Fourth of July Pass between I-60 and Old US 10; (3) Heyburn State Park, Coeur d'Alene vicinity, 90000548

LOUISIANA

St. Landry Parish

Dupre, Jacques, House, Off US 167, N of Opelousas, Opelousas vicinity, 90000543

MARYLAND

Prince George's County

Market Master's House, 4006 48th St., Bladensburg, 90000553

Baltimore Independent City

Alcott, Louisa May, School, 2702 Keyworth Ave., Baltimore, 90000544

MINNESOTA

Redwood County

Birch Coulee School, Off Co. Hwy. 2, S of Morton, Morton vicinity, 90000554

NORTH CAROLINA

Yancey County

Citizens Bank Building, Town Sq., Burnsville, 90000545

PUERTO RICO

San German Municipality

Alcantarilla Pluvial sobrel a Quebrada Manzanares, Calle Ferrocarril and Calle Esperanza, San German, 90000552

WYOMING

Big Horn County

Black Mountain Archeological District (Boundary Increase), Address Restricted, Shell vicinity, 90000557

Paint Rock Canyon Archeological Landscape District, Address Restricted, Hyattville vicinity, 90000556

[FR Doc. 90-5639 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-70-M

Office of Acquisition and Property Management

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Department's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Department's clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1084-0018), Washington, DC 20503, telephone (202) 395-7340.

Title: Buy American Act Notice—Department of the Interior.

OMB approval number: 1084-0018.

Abstract: The provision, an agency supplement to Federal Acquisition Regulation 52.225-5, requires bidders to provide information regarding the type and cost of foreign materials proposed for use in Government construction contracts. The information provided will be used to determine the reasonableness of the cost of domestic materials.

Bureau form number: None.

Frequency: One time, with bid.

Description of respondents: Prospective contractors bidding on construction contracts subject to the Buy American Act.

Estimated completion time: 1 hour.

Annual responses: 250.

Annual burden hours: 250.

Department clearance officer: John Strylowski, 202-343-5345.

Dated: March 6, 1990.

Wiley Horsley,

Acting Director, Office of Acquisition and Property Management.

[FR Doc. 90-5730 Filed 3-12-90; 8:45 am]

BILLING CODE 4310-RF-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31604]

Lamesa Railroad Co.—Acquisition and Operation Exemption

Lamesa Railroad Company (Lamesa), a noncarrier, has filed a notice of exemption to acquire and operate 54.57 miles of rail line owned by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe). The line, known as the Lamesa Branch, extends from a point near Slaton, Lubbock County, TX (milepost 0+329.2 feet), to a point near Lamesa, Dawson County, TX (milepost 54.57).

This transaction is related to a notice of exemption filed concurrently in Finance Docket No. 31604 (Sub-No. 1), *Montey Sneed and Mike Williams—Continuance in Control Exemption—Lamesa Railroad Company* under 49 CFR 1180.2(d)(2), for the continued control of Lamesa by Montey Sneed and Mike Williams, who control a nonconnecting carrier, Crosybton Railroad Company.

Any comments must be filed with the Commission and served on John R. Whisenhunt, Robinson, Felts, Starnes, Angenend & Mashburn, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768–2207.

Applicant shall retain its interest in and take no steps to alter the historic integrity of all site and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 8, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–5776 Filed 3–9–90; 10:01 am]

BILLING CODE 7035–01–M

[1] Lamesa certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old or older that will be transferred as a result of this transaction.

[Finance Docket No. 31604; Sub-No. 1]

Montey Sneed and Mike Williams—Continuance in Control Exemption

Montey Sneed and Mike Williams filed a notice of exemption to continue to control Lamesa Railroad Company (Lamesa). Mr. Sneed and Mr. Williams currently control Crosbyton Railroad Company (Crosbyton), which operates a rail line between Lubbock and Crosbyton, TX. Lamesa, a noncarrier, was formed to acquire and operate the Lamesa Branch, a 54.57-mile line of The Atchison, Topeka and Santa Fe Railway Company between Slaton and Lamesa, in Lubbock and Dawson Counties, TX. Lamesa concurrently filed a notice of exemption in Finance Docket No. 31604, *Lamesa Railroad Company—Acquisition and Operation Exemption—The Atchison, Topeka and Santa Fe Railway Company*, for the acquisition and operation.

Mr. Sneed and Mr. Williams state that: (1) Lamesa and Crosbyton will not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

This transaction involves the continuance in control of a nonconnecting carrier, and comes within the class exemption in 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Docket. Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: John R. Whisenhunt, Robinson, Felts, Starnes, Angenend & Mashburn, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768–2207.

Decided: March 8, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90–5777 Filed 3–9–90; 10:02 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Akzo Chemicals, Inc., and ICI Americas, Inc.

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499 ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that on February 28, 1990, a proposed Consent Decree in *United States* v. *Akzo Chemicals, Inc., and ICI Americas, Inc.*, was lodged with the United States District Court for the Southern District of Alabama, Southern Division. The complaint sought injunctive relief and the recovery of costs under sections 106 and 107 of CERCLA and section 7003 of the Solid Waste Disposal Act, as amended ("SWDA"), 42 U.S.C. 6973. That action concerned the Stauffer Chemical LeMoyne Site and the Stauffer Chemical Cold Creek Site ("the Sites"), in Mobile County, Alabama.

Under the proposed Consent Decree, the defendants will carry out the first phase of the clean-up at the Sites, the Groundwater Operable Unit, as set forth in EPA's Record of Decision ("ROD") executed on September 27, 1989. The response actions for the Groundwater Operable Unit include modification of an existing pump and treat system to intercept and extract contaminated groundwater for treatment to acceptable levels, and performance of treatability studies on sources of contamination at the Sites. In addition, the defendants will pay $281,508.63 to the Superfund in reimbursement of response costs incurred by the EPA in performing certain response actions at the Sites. The Decree reserves the right of the United States to recover costs or seek injunctive relief from Defendants with respect to future phases of the clean-up at the Sites.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Akzo Chemicals, Inc., and ICI Americas, Inc.*, D.J. Ref. 90–11–2–406.

The proposed Consent Decree may be examined at any of the following offices:

(1) The United States Attorney for the Southern District of Alabama, Southern Division, 113 St. Joseph Street, Room 305, Mobile, Alabama; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, Georgia; and (3) the Environmental Enforcement Section, Land & Natural Resources Division, U.S. Department of Justice, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Land and Natural Resources Division, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044–7611, or in person at the U.S. Department of Justice Building, Room 1517, 10th Street and Pennsylvania Avenue NW., Washington, DC. Any request for a copy of the proposed Consent Decree should be accompanied by a check for copying costs totalling $12.40 ($0.10 per page) payable to "United States Treasurer."

Richard B. Stewart,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 90–5732 Filed 3–12–90; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; NAACO, Inc., et al.

In accordance with Departmental policy, 23 CFR 50.7, notice is hereby given that on March 1, 1990, proposed Consent Decrees in *United States* v. *NAACO, Inc., Environmental Safety Design, Inc., and 187 Westminister Associates*, Civil No. CA 90–0107, were lodged with the United States District Court for the District of Rhode Island.

In this case, the complaint alleges that defendants violated section 112(c) of the Clean Air Act, 42 U.S.C. 7412(c), and the asbestos NESHAP work practice standards requiring that asbestos be adequately wet, 40 CFR 61.147(e)(1), during renovations at the Woolworth Building in Providence, Rhode Island. The violations were found during site inspections by EPA personnel on April 29 and May 4, 1988, when an EPA inspector came on site and opened bags containing recently removed asbestos which was dry. Thus, defendants failed to adequately wet friable asbestos materials that had been removed or stripped to ensure that they remain wet until collected for disposal.

The proposed Consent Decrees require defendants to establish remedial programs to prevent the improper removal of asbestos in violation of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants for asbestos. The remedial programs require defendants to ensure compliance with all laws and regulations on any future operations, to properly train employees involved with asbestos removal, to inspect any facility for asbestos prior to any operation, and to give EPA access to any job site for purposes of inspection, sampling, and other compliance activities. In addition to the establishment of remedial programs, the defendants will also pay a civil penalty of $48,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to NAACO, D.J. Ref. 90–5–2–1–1318.

The proposed Consent Decrees may be examined at the office of the United States Attorney, District of Rhode Island, Westiminster Square Building, 10th Floor, 10 Dorrance Street, Providence, Rhode Island and at the Region 1 Office of the Environmental Protection Agency, J.F.K. Federal Building, Boston, Massachusetts 02203. Copies of the Consent Decrees may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1647, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.30 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90–5731 Filed 3–12–90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, title III, Public Law 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Wednesday, March 28, 1990, at 10 a.m., in the Secretary's Conference Room, S–2508, FPB.

Written comments are welcome and may be submitted by addressing them to: Veterans' Employment and Training, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

The primary items on the agenda are (1) National veterans' employment and training programs and policies; (2) calendar for future meetings; and (3) OPM/VETS Agreement.

The public is invited.

Signed at Washington, DC this 6th day of March, 1990.

Thomas E. Collins,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 90–5722 Filed 3–12–90; 8:45 am]

BILLING CODE 4510-79-M

Employment and Training Administration

[TA-W-23, 831]

AT&T Marlton, NJ; Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice corrects the date of petition for the subject firm published on January 31, 1990 in the Federal Register on page 3288 of FR Document 90–2122.

Under the Appendix, in column 4 line 3 on page 3288 the date of petition is corrected to read "December 3, 1989" instead of January 3, 1990.

Signed at Washington, DC, this 2nd day of March 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–5723 Filed 3–12–90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-23,743]

Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assitance for workers at Health-Tex, Incorporated, New York, New York. The review indicated that the application contained no new

substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-23,743; Health-Tex, Incorporated, New York, New York (March 1, 1990)

Signed at Washington, DC this 5th day of March 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-5719 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-23,629]

Reed & Barton Corp., Silversmiths Division, Taunton, MA; Affirmative Determination Regarding Application for Reconsideration

By letters dated January 30, 1990, and February 21, 1990, Local # 593 of the United Silver Workers and the company, respectively, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Reed & Barton Corporation, Silversmiths Division, Taunton, Massachusetts. The negative determination was issued on January 16, 1990, and published in the **Federal Register** on January 31, 1990 (55 FR 3286).

The company, among other things, questions the accuracy of the Department's survey and submitted another list of customers which had declining purchases from Taunton.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 1st day of March 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-5720 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Alaska

This notice announces the beginning of a new Extended Benefit Period in Alaska, effective on February 18, 1990, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by part 615 of Title 20 of the Code of Federal Regulations (20 CFR part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit Period) for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the 13-week period ending on February 3, 1990, equals or exceeds 6 percent, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on February 18, 1990. This period will continue for no less than 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC on March 2, 1990.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 90-5721 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-32-C]

BethEnergy Mines, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BethEnergy Mines, Inc., P.O. Box 137, Drennen, West Virginia 26667 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Mine No. 81 (I.D. No. 46-04130) located in Nicholas County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Due to adverse roof conditions in the return airway of 6th Southwest, the aircourse was re-routed. As a result, the ventilation of the pump station to the return would require approximately 600 feet of tubing.

3. In lieu of coursing the air ventilating the pump station to the return airway, petitioner proposes to use neutral air.

4. In support of this request, petitioner states that the pump would be enclosed and equipped with an automatic device that would close a metal door when the temperature reaches 155 degrees Fahrenheit.

5. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 12, 1990. Copies of the petition are available for inspection at that address.

Dated: March 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-5724 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-31-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Robinson Run No. 95 Mine (I.D. No. 46-01318) located in Harrison County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. The Main West haulage from 20 Block to 174 Block is presently operating under a Petition for Modification of this standard (Docket Number M-80-136-C), which has been approved upon compliance with conditions identical to those set forth in this petition.

3. This petition is requested for the following areas:

(a) Main West haulage beginning at 0 Block and continuing through to and including 19 Block;

(b) Main West haulage beginning at 175 Blcok continuing through to and including 245 Block; and

(c) Main North haulage beginning at 0 Block and continuing through to and including 152 Block.

4. Petitioner states that—

(a) Rectifiers are located along an older haulage that is congested with major falls and severe water problems;

(b) The haulage is ventilated with intake air and there are no effective return airways in the immediate vicinity; and

(c) The intake air passing the rectifiers does not go directly to an active working section.

5. As an alternate method, petitioner proposes that the rectifiers would be located in a fireproof structure and a fire suppression device would be installed over the rectifiers.

6. In support of this request, a warning light integrated with the fire suppression device, would be installed so that it can be readily observed by persons traveling in the track entry.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 12, 1990. Copies of the petition are available for inspection at that address.

Dated: March 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-5725 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-37-C]

Leeco, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Leeco, Inc., 100 Coal Drive, London, Kentucky 40741, has filed a petition to modify the application of 30 CFR 75.1719-1 (cabs and canopies) to its Mine No. 62 (I.D. No. 15-16412) located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Hazard No. 4 coal seam and ranges in height from 38 to 70 inches.

3. Petitioner states that application of the standard would result in a diminution of safety to the miners affected because the canopies would:

(a) Reduce the operator's visibility, causing the operator to lean outside of the compartment to see;

(b) Limit the operator's seating position, resulting in cramped conditions, fatigue, reduced alertness and safety;

(c) Hinder the operator's escape from the compartment in case of an emergency; and

(d) Strike and dislodge permanent overhead roof support.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 12, 1990. Copies of the petition are available for inspection at that address.

Dated: March 6, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-5726 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Nevada State Standards; Approval

1. *Background:* Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of subpart W to part 1952 of title 29 containing the decision. The Nevada plan provides for the adoption of Federal Standards as State standards by reference.

By letters dated September 14, 1989, and October 25, 1989, from Nancy C. Barnhart to Frank Strasheim and incorportated as part of the plan, the State submitted State standards revisions identical to 29 CFR 1910.217, Presence Sensing Device Initiation for Mechanical Power Presses (March 14, 1988, 53 FR 8233); 29 CFR 1910.7, Safety

Testing or Certification of Certain Workplace Equipment and Materials (April 12, 1988, 53 FR 12102 and May 11, 1988, 53 FR 16838) which included the State's intent to adopt OSHA's accreditation program in lieu of establishing its own accreditation program; 29 CFR 1910.66, Powered Platforms for Building Maintenance (July 28, 1989, 54 FR 31408) and 29 CFR 1926.800 Underground Construction (June 28, 1989, 54 FR 23824). These standards are contained in the Division of Occupational Safety and Health Standards for General Industry. The subject standards, 29 CFR 1910.217, Presence Device Initiation for Mechanical Power Presses, 29 CFR 1910.7, Safety Testing or Certification of Certain Workplace Equipment and Materials, 29 CFR 1910.66, Powered Platforms for Building Maintenance and 29 CFR 1926.800, Underground Construction were adopted by reference on April 13, 1988, June 13, 1988, October 25, 1989 and August 11, 1989 respectively, pursuant to Nevada State Law, section 618.295.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly are approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Room 415, San Francisco, CA 94105; Director, Division of Occupational Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal-State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal Standards which were promulgated in accordance with Federal law, including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective March 13, 1990. (Section 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667). Signed at San Francisco, California this 29th day of November 1989.

Frank Strasheim,

Regional Administrator.

[FR Doc. 90-5727 Filed 3-12-90; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397]

Washington Public Power Supply System; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 77 to Facility Operating License No. NPF-21, issued to Washington Public Power Supply System (the licensee), which revised the Technical Specifications for operation of the Nuclear Project No. 2, located in Benton County, Washington.

The amendment was effective as of the date of issuance.

This amendment adds a new section 3/4.1.6, "Reactivity Control Systems, Feedwater Temperature" which specifies that feedwater temperature shall not be reduced below 355 °F. The amendment revised the MCPR Operating Limits in Table 3.2.3-1 by adding limits which would apply at the end of the fuel cycle when feedwater temperature is to be reduced. The amendment also adds definitions and revised the bases to cover feedwater temperature reduction.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR chapter 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 7, 1988 (53 FR 7270). No request for a hearing or petition for leave to intervene was filed following this notice.

This amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this amendment.

For further details with respect to the action see (1) the application for amendment dated December 15, 1987 as supplemented by letters dated March 7, 1989, June 1, 1989, and February 14, 1990, (2) Amendment No. 77 to License No. NPF-21, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Richland City Library, Swift and Northgate Streets, Richland, Washington 99352. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects III, IV, V and Special Projects.

Dated at Rockville, Maryland this 1st day of March, 1990.

For the Nuclear Regulatory Commission.

Robert B. Samworth,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-5711 Filed 3-12-90; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act of 1987 (NWPAA), the Structural Geology and Geoengineering Panel of the Nuclear Waste Technical Review Board will hold a technical information exchange on April 7, 1990. Members of the panel will be briefed by representatives of the U.S. Department of Energy (DOE), who will provide an interim status report on the exploratory shaft facility (ESF) alternatives evaluation study, and repository configuration and construction methods. The ESF is part of the DOE's plan to characterize the proposed Yucca Mountain Site in Nevada as a potential permanent repository for spent nuclear fuel and high-level radioactive waste.

In the NWPAA, the U.S. Congress designated the Yucca Mountain Site as the candidate site for a repository. Congress made final selection of the site subject to extensive studies of its suitability and other conditions.

The meeting will run from 8:30 a.m.–12 p.m. and will be held at the Flamingo Hilton Hotel, 355 Las Vegas Boulevard, South Las Vegas, Nevada 89109. (702) 733–3111.

The public is welcome to attend the meeting as observers. For further information, contact: Paula N. Alford, Director, External Affairs, 1111 18th Street NW., Suite 801, Washington, DC 20036. (202) 254–4792.

Dated: March 7, 1990.

William W. Coons,

Executive Director.

[FR Doc. 90–5690 Filed 3–12–90; 8:45 am]

BILLING CODE 6820-AM-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–27768; File No. SR–Amex–89–18]

Self-Regulatory Organizations; the American Stock Exchange; Order Partially Approving Proposed Rule Change Relating to Listing Guidelines and Instructions

On July 26, 1989, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Sections 140, 141, and 213 of the Amex *Company Guide* to conform certain listing guidelines and instructions with current practices and procedures of the Exchange.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 27153 (August 21, 1989), 54 FR 35551 (August 28, 1989). No comments were received on the proposal.

The Amex is proposing to amend sections 140, 141, and 213 of its *Company Guide* which deal with warrant listing fees, listing fee refunds, and listing application exhibits, respectively. The first proposed revision is to section 140, which currently provides that listing fees for warrants listed on the Exchange are to be based on the aggregate number of shares into which the warrants are exercisable. The Exchange states that, although the majority of warrants are initially issued on a one-to-one conversion basis, there have been instances of new warrant issues which provide that each warrant is exercisable into more than one share of stock. The Exchange states that a literal application of section 140, as written, would result in such issuers being required to pay a higher fee for listing their warrants than the fee required for listing any other new equity issue. Under the Amex proposal, the Amex would amend section 140 to provide that the fees for initially listing a new warrant issue (as well as any annual and additional fees) will be based solely upon the number of warrants to be listed, and not the number of shares into which they are exercisable.

The second proposed revision is to section 141 of the *Company Guide* which deals with pro-rated refunds of pre-paid annual fees to companies that leave the Exchange because of merger, transfer, or other reasons. Section 141 currently requires issuers who leave the Exchange to formally apply for a refund. Any refund they are then entitled to receive from the Exchange is pro-rated and calculated from the time the company is removed from the Exchange. The Exchange states that, as a practical matter, there typically is a time delay of several months between the cessation of trading of the company's securities and formal SEC approval of the company's removal application. Thus, companies are currently charged for this time period (known as the "stub" period) and their pre-paid fees are not refundable during this period. To avoid this consequence and ensure that companies that leave the Exchange receive a refund of their pre-paid fee for any time period they are not listed on the Exchange, the Amex proposes to amend section 141 so that the Exchange will automatically remit a pro-rated refund calculated from the date of suspension of trading of a company's securities. Under the Amex proposal, the new section 141 will provide that, in cases where full payment of the annual fee has been made and all of an issuer's securities are removed from listing and registration, the Exchange will reimburse that part of the annual fee applicable to the portion of the year remaining after the date of suspension from dealings.

Third, the Amex proposes to revise section 213 which sets forth certain exhibits required to be filed by issuers in support of any original listing applications. The Exchange states that certain materials currently required under section 213 no longer are needed for listing evaluation and are rarely, if ever, considered by the Exchange in the listing process.

Therefore, the Exchange proposes to amend section 213 to delete the following items which are now required by the Exchange: Item 10, "Option, Bonus, Profit-Participation, Pension and Retirement Plans," which require one certified copy of any option, bonus, profit-participation, pension, retirement, or other employee benefit plan; Item 11, "Patent, Royalty Agreements," which provides that if an applicant or its subsidiaries pay or receive any substantial royalties (or similar payments) in connection with patents, patent rights, licenses, or processes, it should furnish one certified copy of each such agreement; and Item 12, "Blue Sky Information," which requires an applicant to file a copy of the final prospectus and blue sky memorandum if the applicant has made a public offering of its securities in the past two years. This item further requires that if a memorandum was not prepared in connection with its public offering, the applicant must list the jurisdictions in which the application was made, the date of the application, and the date and type of action in each state. In addition, if the state application was denied or withdrawn, the applicant is required to attach copies of all correspondence with, and orders issued by, the authorities of those states.

Finally, the Exchange proposes that a general provision be added to section 213, as Item 10, reserving to the Exchange the right to require copies of any other documents from applicants that the Exchange deems necessary for its review of an issue's eligibility for listing.

Based on careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[4] The Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] In this rule filing, the Amex also proposes to amend section 121 of the *Company Guide* to require that all Amex-listed companies: (1) Have at least two independent directors, and (2) establish and maintain an audit committee comprised of a majority of independent directors. The Commission staff is still reviewing this portion of the proposal. The Amex has requested, however, that the Commission approve those parts of the rule filing that do not deal with Section 121. *See* letter from Michael S. Emen, Vice President and Counsel, Amex, to Liz Pucciarelli, Division of Market Regulation, SEC, dated February 27, 1990. Accordingly, this order only discusses and grants approval to those portions of the filing pertaining to Sections 140, 141, and 213 of the *Company Guide*.

[4] 15 U.S.C. 78f (1982).

open market. The Amex's proposed revision to amend section 140 to provide that the fees for listing a new warrant issue shall be based solely upon the number of warrants to be listed and not, as currently written, based upon the number of shares into which they are exercisable, would clarify the Exchange's method for calculating listing fees for warrants and would ensure that the required listing fees for warrants are based solely upon the warrants to be listed. The Commission believes that this revision would result in a more equitable allocation of listing fees for warrants. In particular, it would avoid the situation where new warrant issues that are exercisable into more than one share of stock would result in the issuer paying higher listing fees for warrants than for other equities. Further, this revision is also consistent with section 6(b)(4) of the Act because it provides for the equitable allocation of reasonable fees by the Exchange.

In addition, the Commission believes that the Amex's revision to section 141, which changes the process whereby the Exchange refunds portions of pre-paid annual fees to firms who leave the Exchange, would ensure that a firm does not have to pay a fee for any time period it is not listed on the Exchange. By amending the Exchange's current method of providing refunds to automatically refund any unused portion of the annual fee, the Amex is furthering the equitable allocation of fees under section 6(b)(4) of the Act because listed firms will no longer be subject to fees for time periods during which they are not listed on the Exchange.

Further, the Commission believes that the Amex's revision to section 213, which would delete the provisions requiring information about a company's option, bonus, or retirement plans, information relating to patent agreements, and blue sky information, from a listing application would make the Amex's listing process more efficient. As the Exchange states that it rarely considers these documents in the listing evaluation process, the Commission believes that the deletion of these required materials from the listing process would lessen the paperwork burden on firms applying for Amex listing. Thus, the deletion of this requirement for voluminous material from the listing evaluation proceeds would serve to streamline the process and avoid the submission by applicants of unnecessary documentation that may be time-consuming for an applicant to compile. Moreover, most of the information that will no longer be required of listing applicants is publicly available to investors.[5]

Finally, the Commission believes that the Amex's proposal to add a general provision, as Item 10, to section 213 reserving to the Exchange the right to require any information from applicants it deems necessary for proper and complete evaluation of applications to list certain issues would provide the Exchange with the flexibility to secure sufficient information from prospective listing applicants as it deems appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5645 Filed 3-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27769; File No. SR-AMEX-90-03]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing of Index Warrants Based on the Financial Times-Stock Exchange 100 Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 20 1990, the American Stock Exchange ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes under Section 106 of the Amex *Company Guide,* to list index warrants based on the Financial Times-Stock Exchange 100 Index ("FT-SE 100" or "Index").[1] The Amex is submitting its proposal to trade FT-SE 100 warrants pursuant to the requirements of a 1988 rule change by the Amex that, among other things, permitted the Exchange to list index warrants based on established market in indexes, both foreign and domestic.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In the Index Warrant Approval Order, the Commission expressed interest in the impact of additional index products on U.S. markets, and stated that the Amex would be required to submit for Commission approval any specific index warrants that it proposed to trade. The Amex is currently trading several issues of index warrants based on the Nikkei Stock Average ("Nikkei warrants").[3]

The Amex is now proposing to list index warrants based on the FT-SE 100, an internationally recognized, capitalization-weighted stock index based on the prices of 100 of the most highly capitalized British stocks traded on the International Stock Exchange of the United Kingdom and the Republic of Ireland ("ISE").[4] The Index is updated

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[5] For example, Schedule 14A of the Act requires public companies to file materials concerning bonus, profit sharing, and compensation plans. 17 CFR 240.14a-101 (1989).

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1989).

[1] See infra notes 4-5 and accompanying text for a description of the Index.

[2] See Securities Exchange Act Release No. 26152 (October 3, 1988) 53 FR 39832 (October 12, 1988) (order approving File No. SR-Amex-87-27) ("Index Warrant Approval Order").

[3] See Securities Exchange Act Release No. 27565 (December 22, 1989) 55 FR 376 (January 4, 1990) (order approving File No. SR-Amex-89-22 allowing the Amex to trade Nikkei warrants).

[4] The Index is composed of stocks of companies from 29 different industry groups, no one of which dominates the Index, and the percentage weighting of the five largest issues, as of October 3, 1989, accounted for approximately 21.38% of the Index's value. The total capitalization of the Index, as of October 30, 1989, was $521.6 billion. In addition, over the period January 1989 through June 1989, the average daily trading volume of each component

Continued

each minute from 9 a.m. to 5 p.m. (London time).[5]

Consistent with the Index Approval Order, the Amex states that the FT–SE 100 warrant issues will conform to the listing guidelines under section 106 of the Amex *Company Guide*. Specifically, section 106 provides that (1) the issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed size and earnings requirements in Section 101(a) of the *Company Guide;*[6] (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be one million warrants, together with a minimum of 400 public holders, and have an aggregate market value of $4 million.

The FT–SE 100 warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant's expiration date (if not exercisable prior to such date), the holder of a warrant structured as a put option would receive payment in U.S. dollars to the extent that the FT–SE 100 has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a call option would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the FT–SE 100 has increased above the pre-stated cash settlement value. If the warrants are out-of-the-money at the time of expiration, they would expire worthless.

The Amex has adopted suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Rule 411, Commentary .02 applies the options suitability standard in Rule 923 to recommendations regarding index warrants. The Amex also recommends that index warrants be sold only to options-approved accounts. Rule 421, Commentary .02 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day entered. In addition, the Amex, prior to the commencement of trading FT–SE 100 warrants, will distribute a circular to its membership calling attention to the specific risks associated with warrants on the FT–SE 100.

In the Index Warrant Approval Order, the Commission noted that, with respect to foreign index warrants, there should be an adequate mechanism for sharing surveillance information with respect to the index's component stocks. In this regard, the Amex has entered into a Memorandum of Understanding relating to information sharing with The Securities Association ("TSA").[7] The Exchange believes that this Memorandum is an appropriate and sufficient information sharing agreement for the purpose of accommodating FT–SE 100 warrant trading on the Exchange.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general, and, in particular, furthers the objectives of section 6(b)(5) in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[8] Specifically, the Commission believes, as it did when approving the Amex's framework for index warrants and foreign currency warrants, that index warrants, such as the FTSE 100 warrants, are innovative financing techniques that provide issuers with increased flexibility in financing capital. Index warrants such as the proposed FT–SE 100 warrants are designed to allow an issuer to offer debt at a lower rate than in a straight debt offering in return for assuming some foreign currency or market volatility risk. At the same time, the FT–SE 100 warrants will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the FT–SE 100 moves in a favorable direction within a specified time period.[9]

The Commission also believes that the FT–SE 100 warrants are consistent with its generic Index Warrant Approval Order. Because the FT–SE 100 is a broad-based index of actively traded, well-capitalized stocks, the trading of cash-settled warrants on the FT–SE–100 on the Amex does not raise unique regulatory concerns.[10] The Commission

stock was above 100,000 shares. The Index is administered by the FT–SE 100 Index Steering Committee, a committee composed of representatives from various U.K. financial institutions. The Steering Committee is responsible for, among other things, establishing rules to determine, review, and modify the composition on the Index, as well as how the Index is calculated.

[5] The Index is calculated by taking the summation of the multiple of the market price for each stock in the Index times the number of shares of that stock outstanding. This sum total is then divided by another number, termed the "divisor," to produce the Index value. The market price for each constituent stock is calculated by taking the mid-point between the highest bid and lowest offer for each stock. The divisor of the Index is continuously adjusted to reflect changes in market capitalization. The Index is published daily in the Financial Times and is available real-time on Reuters, Telerate and other market information systems which disseminate information on a minute-by-minute basis. For additional information regarding the calculation and composition of the Index, see letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to Joanne T. Medero, General Counsel, Commodity Futures Trading Commission ("CFTC"), dated January 8, 1990 ("FT–SE 100 letter"), at 4–5.

[6] Section 101(a) requires stockholder's equity of at least $4,000,000 and pre-tax income of at least $750,000 in the issuer's last fiscal year, or in two of its last three fiscal years.

[7] TSA came into existence as a result of an agreement between the ISE and the International Securities Regulatory Organization ("ISRO"). Under the terms of the agreement, the ISE was established as a recognized investment exchange with rights and obligations analogous to the NASD, and ISRO was reorganized as the TSA. Currently, the TSA is the self-regulatory organization responsible for regulating the U.K. equity securities market. Although all ISE members must be members of the TSA, TSA also consists of members which may not be active on the ISE. Thus, the Memorandum of Understanding entered into between the Amex and TSA will allow the Amex to obtain trading data from more U.K. equity securities market participants, whose activity may affect the FT–SE 100 warrants, than would an agreement between the Amex and the ISE.

[8] 15 U.S.C. 78f(b)(5) (1982).

[9] Of course, if the FT–SE 100 moves in the wrong direction or fails to move in the right direction, the warrants will expire worthless and the investors will have lost their entire investment.

[10] The Commission previously has examined the FT–SE 100 in the context of an application by the London International Financial Futures Exchange for certification that its futures contract meets CFTC requirements to permit the contract's offer and sale

Continued

notes that the Amex rules and procedures that address the special concerns attendant to the secondary trading of index warrants will be applicable to the FT-SE 100 warrants. In particular, by imposing the special suitability, disclosure, and compliance requirements noted above, the Amex has addressed adequately potential public customer problems that could arise from the derivative nature of FT-SE 100 warrants. Moreover, the Amex plans to distribute a circular to its membership calling attention to the specific risks associated with warrants on the FT-SE 100 and, pursuant to section 106 of the Amex *Company Guide*, only substantial companies capable of meeting their warrant obligations will be eligible to issue FT-SE 100 warrants.

In light of the fact that the FT-SE 100 is a foreign index, the Commission believes adequate surveillance sharing agreements between the Amex and the TSA is a necessary prerequisite to deter and detect potential manipulation or other improper or illegal trading involving the warrants. To address this concern, the Amex entered into a Memorandum of Understanding with the TSA in October 1988 that is broad enough to include the sharing of market information related to the trading of FT-SE 100 warrants on the Amex.[11] This memorandum obligates the Amex and the TSA to use their best efforts to obtain and to provide the other party with information necessary for the other party to fulfill its regulatory responsibilities. Accordingly, the Commission believes the Memorandum of Understanding between the Amex and TSA is adequate to provide an oversight framework regarding potential manipulation or other trading abuses between the markets with respect to the trading of FT-SE 100 warrants.

Finally, the Commission believes that trading in the FT-SE 100 warrants will not have an adverse impact on U.S. financial markets. In fact, the Commission believes the FT-SE 100 warrants will benefit U.S. markets by providing U.S issuers more flexibility in raising capital at potentially lower costs and allowing U.S. investors an opportunity to better hedge against stock market fluctuations in the United Kingdom.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In addition to the Commission's finding that the listing of FT-SE 100 warrants on the Amex will not have an adverse impact on U.S. financial markets, the Commission notes that it has previously solicited comments on the Amex listing guidelines applicable to index warrants based on established market indexes[12] and the listing of warrants on the Amex based on the Nikkei Stock Average.[13] The Commission did not receive any comments in connection with these filings. The Commission believes that the issues raised by the proposed rule change are substantially the same as the issues raised in those prior filings. Accordingly, since the Commission has not received any negative comments regarding the trading of index warrants on the Amex in general, and on the Nikkei warrants in particular, and it has previously evaluated the FT-SE 100 Index and concluded that it is a well-followed, highly capitalized index, the Commission believes it is consistent with section 6(b)(5) of the Act to approve the Amex's proposal on an accelerated basis given the large public interest to trade index warrants.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 3, 1990.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act[15] that the proposed rule change (SR-Amex-90-03) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Dated: March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5641 Filed 3-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27775; File No. SR-CBOE-89-28]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Eligibility Requirements for RAES in Equity Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), Notice is hereby given that on December 28, 1989 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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to U.S. citizens. At that time, the Commission found that the FT-SE 100 was not readily susceptible to manipulation because of the representative nature of the various industry segments included in the Index, the weighted value of the Index's component stocks, and the substantial capitalization and trading volume of the component stocks. See FT-SE 100 letter, *supra* note 4, at 5-7.

[11] See Memorandum of Understanding Concerning the Provision of Information for the Purpose of Regulation and Enforcement between the Amex and the TSA, dated October 13, 1988. The Memorandum of Understanding relates to the provision of information concerning any security traded through the facilities of the Amex, any security underlying a derivative instrument traded through the facilities of the Amex, or any derivative instrument based upon or including a security traded through the facilities of the Amex. Accordingly, the Memorandum allows for the provision of information relating to the FT-SE 100 warrants or any securities underlying the FT-SE 100 warrants.

[12] Securities Exchange Act Release No. 25079 (October 30, 1987) 52 FR 43138 (November 9, 1987).

[13] Securities Exchange Act Release No. 27342 (October 6, 1989) 54 FR 42428.

[14] Nikkei warrants have been very well received since they commenced trading in January 1990, as the warrants are often among the Amex's ten most active securities list.

[15] 15 U.S.C. 78s(b) (1982).

[16] 17 CFR 200.30-3(a)(12) (1989).

[1] The CBOE originally filed the proposal as a filing under section 19(b)(3) of the Act. Subsequently the CBOE amended the filing to seek approval under section 19(b)(2) of the Act. *See* letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, Commission, dated January 22, 1990.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes that the eligibility requirements for market makers to participate in the CBOE's Retail Automatic Execution System ("RAES") in equity options, that have been approved by the Commission on a pilot basis, be made permanent.[2] Additionally, the Exchange proposes to incorporate these eligibility requirements, along with some minor revisions and clarifications, into the CBOE's rules as a new Rule 8.16. Finally, the CBOE requests partial accelerated approval of the portion of its proposal that extends the existing pilot program. The Exchange proposes the following new Rule 8.16. (Additions are in italics; deletions are bracketed.)

Rule 8.16 RAES Eligibility in Equity Options

(a) [1.] Any Exchange member who has registered as a market-maker is eligibility to log on RAES in an equity option class, so long as the following requirements are met[.]:

(i) [2.] The Market-maker must log on the system using his own acronym and individuals password. All RAES trade to which the market-maker is a party will be assigned to and will clear into his designated account.

(ii) [3.] The market-maker may designate that his trades be assigned to and clear into either his individual account or a joint account in which he is a participant. Unless exempted by the Market Performance Committee, only one participant in a joint account may use the joint account for trading *on RAES* in a particular option class. [at one time on RAES or in regular trading.] *DPM participation shall also be governed by the MTS Committee as provided in Rule 8.80.*

(iii) [4.] Unless exempted by the Market Performance Committee, a market-maker may log on RAES in a particular equity option only in person and may continue on the system only so long as he is present in the trading crowd. Accordingly, absent exemption from the foregoing limitation, a member may not remain on the RAES system and must log off the system when he has left the trading crowd, unless the departure is for a brief interval.

(b) [5.] In option classes designated by the Market Performance Committee, any market-maker who has logged on RAES at any time during an expiration month must log on the RAES system in that option class whenever he is present in the trading crowd until the next expiration.

(c) [6.] Notwithstanding the limitation in paragraph [4] *(a)(iii)* above, if there is inadequate RAES participation in a particular options class, the Exchange's Market Performance Committee Floor Officials may require market-makers who are members of the trading crowd, as defined in *Rule 8.50* [Interpretation .01 to Rule 8.12,] to log on [to] RAES absent reasonable justification or excuse for non-participation[.] *or may allow market-makers in other classes of options to log on RAES is such classes.*

(d) [7.] [Failure of a member] *Members who fail* to abide by the foregoing requirements may be subject to disciplinary action under, among others, Rule 6.20 and chapter XVII of the Exchange Rules. Such failure may also be the subject of remedial action by the Market Performance Committee, including but not limited to suspending a member's eligibility for participation on RAES and such other remedies as may be appropriate and allowed under Chapter VIII of the Exchange Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange proposes that the market maker eligibility requirements to participate on RAES for equity options be approved on a permanent basis. Additionally, the CBOE proposes to incorporate these market maker eligibility requirements into the Exchange's rules. The Exchange also proposes that the market maker eligibility requirements, that have been approved on a pilot basis, be extended.

The Exchange believes that its proposed Rule 6.8 does not include any substantive changes from the existing market maker eligibility requirements to participate on RAES for equity options that have been approved by the Commission on a pilot basis. The CBOE proposal does include some clarifications, such as noting that the provisions of the Designated Primary Market Maker ("DPM") pilot program also shall apply to classes of options that are included in the RAES pilot program. Additionally, the CBOE proposal moves from the RAES/Equity operational procedures to the RAES/Equity eligibility procedures the provisions granting the CBOE's Market Performance Committee Floor Officials the authority to allow market makers in other classes of options to log on RAES for a particular series.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The CBOE has requested that the portion of its proposal that extends the existing pilot program be given accelerated approval. The Commission finds that this portion of the proposed rule change is consistent with the requirements of the Act and the Commission believes, as it noted when approving the pilot program, that the eligibility requirements are a positive step in strengthening the integrity of the RAES system for equity options. The Commission finds good cause for extending the pilot program prior to the thirtieth day of publication of this notice of filing in the **Federal Register** because the pilot program has operated effectively since its implementation and the Commission has not received any negative comments regarding the pilot program since its inception. Finally, the Commission's approval is limited until December 31, 1990.

With resepct to the other portions of the proposed rule change, the timing for Commission action will be within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

[2] The Commission approved the CBOE's proposed RAES eligibility requirements for equity options (SR-CBOE-87-47), on a pilot basis, in August 1988. *See* Securities Exchange Act Release No. 25995 (August 15, 1988), 53 FR 31781. The existing eligibility requirements also impose, in certain circumstances, obligations on members of the trading crowd to log on RAES.

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 3, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[3] that the proposed rule change (SR-CBOE-89-28) be, and hereby is, approved, solely as it relates to the extension of the existing eligibility requirements on a pilot basis until December 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: March 7, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5646 Filed 3-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27774; File No. SR-CBOE-89-27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to RAES Operations in Equity Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 28, 1989 the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organziation.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to incorporate formally into its Rules the operational procedures governing the CBOE's Retail Automatic Execution System ("RAES") is equity options, that have been previously approved by the Commission.[2] In addition to incorporating the existing RAES operational procedures into its rules, the CBOE proposes a number of amendments to the existing procedures that are noted below. (Additions are in italics; deletions are bracketed.)

Rule 6.8 RAES Operations in Equity Options

(a) (i) Firms [currently] on the Exchange's Order Routing System ("ORS") will automatically be on *the Exchange's Retail Automatic Execution System ("RAES")* [RAES] for purposes of routing small public customer market *or marketable limit* orders into the RAES system. *Such orders are those as defined in Rule 7.4(a) regarding placing of orders on the public customer book. The Equity Floor Procedure Committee ("EEPC") shall determine the size of orders eligible for entry into RAES. For purposes of determining what a small customer order is, a customer's order cannot be split up such that its parts are eligible for entry into RAES.* Firms on ORS have the ability to go on and off ORS at will. Firms not on ORS that wish to participate [in the pilot] will be given access to RAES from terminals at their booths on the floor.

(ii) When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry to the system. A buy order will pay the offer; a sell order will sell *at* the bid. A participating market-maker will be designated as contra-broker on the trade.

(iii) This rule shall apply to RAES in classs handled by DPM's except that the MTS appointment committee may make available additional series or raise the size of eligible orders in a DPM's classes pursuant to Rule 8.80.

(b) It is possible that the prevailing markets bid or offer may be equal to the best bid or offer on the Exchange's book. In [no case can] *those instances*, a RAES order *cannot* be executed at a price [better than] *where* the best bid or offer on the book [because] *equals* the prevailing market. [may be no better than the best bid or offer on the book.] A RAES sell order *never* can[not] be filled at a price lower than the best book bid, nor can a RAES buy order be filled at a price higher than the best book offer. However, in the case of options on IBM, and in the case of unusual market conditions for other option classes, *as determined by two Market Performance Committee ("MPC") Floor Officials*, a transaction can take place at the price of *the best bid or offer reflected by* a booked order.

(c) Under ordinary circumstances, in options classes [in the pilot] other than IBM, if a RAES order would be executed at the price of one or more booked orders, the order will be rerouted on ORS under the existing ORS parameters. Currently, such an order would be routed to a Floor Broker in the crowd via a printer, *as determined upon the volume parameters of each firm.* In the event that the firm routing the order is not routing orders to the printer in that crowd, the order would print at the firm's booth. The representation, execution and reporting of such an order would occur as it does for all orders so routed.

[The Exchange may suspend book participation in RAES for an options class upon a declaration of unusual market conditions. Such a declaration may be made in an options class whenever the Exchange's Vice Chairman and President (or their respective nominees) concur in determining that conditions in that options class are such that it is no longer possible for Exchange operations personnel to conduct normal trading operations and to handle the manual integration of booked and RAES orders. Such concurrence is also required to restore book participation in RAES.]

(d)(i) Participating market-makers will be assigned by RAES on a rotating basis, with the first mareket-maker selected at random from the list of signed-on market-makers.[, subject to book interaction as described above.] Participating market-makers are obligated to trade at the displayed market quote at the time an order enters the system. Exchange rules shall not apply to the extent that they are inconsistent with [the] *these* terms [of the pilot], including but not limited to Rule 6.45[.] (Priority of Bids and Offers). Rule 6.43 (Manner of Bidding and Offering), and Rule 8.1 (Market-Maker Defined). Position and exercise limits will remain in effect for RAES transactions, Transactions excecuted through RAES orders will count towards fulfillment of the in-person requirement of Rule 8.7.

(ii) All participants will be informed of trades immediately upon execution. A file report [will] *may* be generated to the firm at the firm's point of entry into the system [i.e., either its branch office [of] *or* floor booth). A trade acknowledgement ticket ("TAT") will be printed at locations in trading posts where selected options classes are located, for delivery to market-makers. TAT's for market-

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[1] The CBOE originally filed the proposal as a filing under section 19(b)(3) of the Act. Subsequently the CBOE amended the filing to seek approval under section 19(b)(2) of the Act. *See* letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Howard Kramer, Assistant Director, Division of Market Regulation, Commission, dated January 22, 1990.

[2] The Commission approved the CBOE's operational procedures for RAES in equity options (File No. SR-CBOE-87-35) in August 1988. *See* Securities Exchange Act Release No. 25995 (August 15, 1988), 53 FR 31781.

[3] 15 U.S.C. 78s(b)(2) (1982).

[4] 17 CFR 200.30-3(a)(12) (1989).

makers not present at the trading post will be set aside for pickup. The Exchange may make available an electronically transmitted TAT in lieu of a printed TAT. A log for all transactions will be available throughout the day for review by participants. Audit reports will be sent to the Exchange's Regulatory Services Division. The Exchange may provide electronic reporting of trades to participating market-makers in lieu of hard copy TAT's.

(e) Eligible orders must be market or marketable limit orders [for ten or fewer contracts] on series placed on the system. The [Exchange] *EFPC,* in its discretion, may determine to restrict eligible orders, including but not limited to, [limiting orders to market orders and to] lowering contract limits. *Announcements concerning the size and kind of eligible orders will be made as these are adjusted.* The [Exchange] *EFPC* will have discretion to place on the system such series in [the eligible] classes of options as it determines is appropriate. Announcements concerning eligible series will be made daily by the Exchange in the same way new strike prices are currently announced [, that is,] *(i.e.,* by memorands [and] *or* taped telephone messages*).*

(f) Each day the system is available, a post director or his representative will start the system, after quotes in the eligible series have been updated following opening rotation. [If no market maker in a particular option class signs on RAES, the Exchange's Market Performance Committee may, in its discretion, either require all market-makers standing in such class to sign on or may allow market-makers in other classes of equity options to sign on in such classes.] If the system is or becomes unavailable, for any reason, eligible orders will be handled as they are handled currently in [other] *non-eligible* equity option [classes] *series.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The CBOE submitted the proposed rule change in order to formally incorporate in the Exchange's rules the current operational procedures governing RAES in equity options. Additionally, the CBOE is proposing to amend the existing procedures, but the Exchange does not believe that any of the changes in the proposal substantially alter the Exchange's current interpretations and policies governing RAES equity operations.

The Exchange believes that the proposed changes clarify existing policies regarding the execution of RAES orders. Specifically, the proposed additions provide that: (1) Marketable limit orders may use RAES; (2) only non-broker-dealer orders are allowed on RAES; and (3) orders may not be split to meet the size eligibility requirement for RAES orders. The CBOE proposal also states that the RAES operational procedures shall apply to options classes that are included in the Designated Primary Market Maker ("DPM") pilot program.

Additionally, the CBOE proposal provides the EFPC with the power to determine the size of eligible orders for RAES. Currently, the Commission has approved the use of RAES in equity options for orders up to ten contracts. The proposal would permit the EFPC to increase the size of orders permissible for RAES, as the EFPC considers appropirate, without requiring the CBOE to submit a rule filing to the Commission for such changes.

The CBOE proposal also modifies the current operational procedures applicable to RAES that are permitted during unusual market conditions. Currently, the Exchange may suspend book participation in RAES for an options class upon the declaration of an unusual market condition. Since the RAES procedures were approved for equity options, however, the CBOE has developed the computer capability to reroute orders so that it is no longer necessary to bypass the book during unusual market conditions, Accordingly, the CBOE proposes to delete the provisions regarding the suspension of book participation in RAES. The CBOE proposal provides, however, that, in the case of options on IBM, and in the case of unusual market conditions for other option classes, a transaction on RAES can take place at the price of the best bid or offer reflected by a booked order.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 3, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[3] 17 CFR 200.30-3(a)(12) (1989).

Dated: March 6, 1990.
Jonathan G. Katz,
Secretary.
[FR Doc. 90-5647 Filed 3-12-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 34-27757; File No. SR-GSCC-90-1]

Self-Regulatory Organizations; Proposed Rule Change by Government Securities Clearing Corporation Relating to the Netting of Forward-Settling Trades in Government Securities

March 2, 1990.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on February 9, 1990 the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below. Items II and III have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify GSCC's rules in order to allow for the netting of Forward-Settling trades in Government securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) GSCC to date has made eligible for netting all Treasury Note and Treasury bond issues; however, because data on these trades are not pended in the system once compared, only regular-way trades in these products effectively are eligible for the net. In addition, GSCC recently made eligible for the net all Treasury Bill issues, as they are announced. However, while forward-settling Bill trades are eligible for the net, GSCC views this step as only an interim measure preliminary to the implementation of a comprehensive system for the netting of forward-settling trades (includes when-issued trades) in all Government securities products.

The Board of Directors and management of GSCC believe that, in view of the potential risks to individual Government securities brokers and dealers and to the industry as a whole posed by the nature of forward-settling trading in Government securities and the large volumes involved, it is imperative for GSCC to move forward expeditiously to introduce a comprehensive procedure for the netting of all forward-settling Treasury security tides.

GSCC already provides protection to members participating in forward-settling Government securities trading through its comparison service for such trades, which minimizes the possibility of a firm not knowing a trade on its settlement date. Currently, however, none of the myriad of benefits arising from the GSCC Netting System, including significant reductions in actual movements required to settle trades, cash mark-to-market pass-throughs, margin collections, and an orderly process for dealing with the failure of a participant, which are provided to the industry by GSCC with regard to regular-way Government securities trades, are available for the forward-settling trading of Government securities. The absence of such protections for a market in which a firm may generate substantial trading positions heightens the possibility of one or more firms incurring sizable losses that might lead to their insolvency.

This situation presents the potential for significant disruption to the settlement process for the entire Government securities market, as was widely feared might occur in November 1987. Encompassing all forward-settling Government securities trades within the Netting System significantly mitigates this concern in a number of ways:

The netting factors for when-issued Notes and Bonds are extremely high. Therefore, the vast majority of the settlement obligations arising from such trades—along with the risks attendant to such obligations would be eliminated by the net, and there would be a dramatic decrease in the number of actual movements of securities and cash required.

There would be multilateral netting by novation occurring after comparison on each business day after auction day during the forward-settling period. Thus, as it does for regular-way trades, GSCC would assume responsibility for the settlement of all securities and funds-only settlement arising from net settlement positions in forward-settling securities.

GSCC would collect on a daily basis collateral sufficient to ensure an orderly settlement by providing sufficient protection for itself, its members, and the industry in general against the potential default of a member.

GSCC's comprehensive loss allocatior system would encompass forward-settling trading, thus better ensuring an orderly process for dealing with the potential failure of a participant.

In general, GSCC's role in the settlement process for the forward-settling market would help ensure that such process will be an orderly one, regardless of then-prevailing market conditions. Thus, GSCC believes that the need to apply as soon as possible the protections of its netting operation tc forward-settling Government securities trades is compelling, and provides further incentive for every major participant in Government securities market to join the Netting System. The following is a summary of GSCC's proposed procedure for the netting of all forward-settling securities eligible for the net.

1. Background

In designing a system for the netting of forward-settling Government securities trades, GSCC considered fully applying mark-to-market requirements during the period between trade and settlement, in the same manner as is currently done for regular-way trading. That is, GSCC could require Netting Members (hereinafter "members") to pay (and entitle them to receive) on a daily basis in cash the full amount of mark payments stemming from net settlement positions in forward settling securities.

Given the potential for significant amounts of money to have to be paid to or passed through GSCC on a daily basis, which might on any particular day drain liquidity from a firm in an unpredictable manner and, as well, might build over a period of days or otherwise arise in a fashion so as to be unduly burdensome for firms participating in the Netting System, members requested that an alternative to the approach of obtaining full mark-to-market protection with regard to the netting of forward-settling trades be developed. In response, GSCC has focused on structuring a system that would not necessarily require full

margin for each exposure presented to GSCC but would be sufficient to protect GSCC and to realistically reflect, and minimize, the risk of disruption to the settlement position (the "forward mark allocation amount") that ensures, on a per-CUSIP basis, that the failure of up to all of the five members with the largest debit mark levels on any given day would not disrupt the ability of the system to successfully settle that day's Government securities trades. The total debit mark level of these five members could, on a particular day, constitute as much as 100 percent of the daily liquidation exposure incurred by GSCC as regards that CUSIP (of which a maximum of 75 percent, and a minimum of 25 percent, would be collected).

This proposal thus is a different approach to the provision of collateral protection than that taken with regard to regular-way trades in that, while also focused on ensuring an orderly settlement process, it does not require full collateralization of the settlement exposures presented to GSCC by every member. The instant proposal is structured to reflect the fact that to obtain protection with regard to forward-settling trades by the same means as is done for regular-way trades could significantly drain liquidity from individual participants and from the industry as a whole, in a manner that may itself present risks to the settlement process. Also of significance is that this proposal does not necessitate a change to the current loss allocation scheme for members.

In sum, this proposal represents an approach to the netting of forward-settling trades that both provides a sufficient degree of protection for GSCC and its members from the potential exposure presented by the netting novation of trades during the forward-settling period, and a sufficient improvement from present practice, while neither unduly draining liquidity from Netting Members and the industry as a whole nor compromising the competitive posture of Netting Members.

2. Overview

GSCC proposes to maintain and "roll forward" every night, from auction date until the scheduled settlement date, net settlement positions on forward-settling trades that have been compared among members. The netting process will be done in the same manner by which GSCC currently nets regular-way trades, except, of course, that receive and deliver obligations with regard to net settlement positions on forward-settling trades will not be generated until the processing cycle immediately prior to the scheduled settlement date for such trades (so as not to alter the timing of settlement).

Of note is that the netting of forward-settling trades and the novation of such trades—that is, the termination of all deliver, receive, and related payment obligations between the parties to the trade and their replacement by deliver, receive, and related payment obligations to and from GSCC—will occur simultaneously; that is, both will occur each night from the first night after the auction date on which there is compared data on such trades until the night before the settlement date. Thus, upon each daily calculation of the net, GSCC will assume responsibility for the settlement of the securities and funds-only obligations associated with the trades that underlie the net settlement position (as it does now for regular-way trades in eligible securities).

Because the novation of trades may occur one or more days prior to the settlement of such trades, GSCC may incur multi-day settlement exposure on such trades. To be in a position to protect its members and ensure an orderly settlement process, GSCC will, on each business day for each CUSIP, determine the mark on each member's current net settlement position in that security, with the system price being calculated in a manner consistent with that done for regular-way trades. Each such net settlement position will be calculated on an ongoing basis from the date on which the trades that comprise such position were compared and novated to the current day. Members in a *debit* mark position to GSCC with regard to a particular CUSIP will be required to maintain with GSCC on a daily basis, a forward mark allocation amount in an amount equal to a portion of such debit mark amount calculated based on the relationship between the five largest member debit mark amounts and the total debit mark amount. Also, in order to fully take into account the liquidation exposure for GSCC stemming from the size of net settlement positions in forward-settling trades, such positions will be reflected in the daily calculation of member's Clearing Fund requirements for the forward-settling period.

3. Forward Mark Allocation Requirements

Each business day during the forward-settling period until the scheduled settlement date, GSCC will require a forward mark allocation payment to it from certain non-Inter-Dealer Broker members for protection against market exposure on forward-settling positions. This payment will have the following characteristics:

The basis for determining the payment requirement will be the daily mark-to-market obligation associated with a member's ongoing net settlement position in each security with a distinct CUSIP from the time post-auction comparison and novation of the trades that underlie such position.

The payment requirement will be collected only from those non-Inter-Dealer Broker members who are in a debit mark position (*i.e.*, members that would owe a mark payment to GSCC) on a particular business day with regard to a particular CUSIP. There will be no payment made by GSCC to members that are in a credit mark position with regard to a forward-settling issue.

The payment requirement will be calculated for each such member on a CUSIP-by-CUSIP basis by multiplying such debit mark amount by a fraction, the numerator of which is the total of the debit mark amounts of the members (including Inter-Dealer Broker members) with the five largest debit mark amounts on such business day, and the denominator of which is the total of the debit mark amounts of all members for the day minus the total of the debit marks of all Inter-Dealer Broker members for that day. This fraction will be capped at 75 percent. To ensure the sufficiency of the forward mark allocation pool on any given day, this fraction will not be allowed to be less than 25 percent.

A member's required payment amount will be calculated each business day as part of the netting process. Each business day, new payment obligations will be established; in effect, if the member's debit mark amount decreases, or if the Member should go from a debit mark position to a credit mark position, some or all of the margin deposited with GSCC by such member, as appropriate, will be returned to it by GSCC on the same business day.

Required payments may be made in cash and/or collateralized by eligible Treasury securities or letters of credit. Cash payment will be collected and returned as a part of GSCC's daily funds-only settlement process.

4. Implementation for Clearing Fund Requirements

A member's net securities and funds-only settlement obligations arising from forward-settling Government securities trades will be factored into the calculation of such member's Clearing Fund requirement during the post-auction forward-settling period, essentially in the same manner as is done now with regard to regular-way trading. (It should be noted that this

proposal will be made effective only after GSCC's plan to revise the Clearing Fund formula to reflect offsetting positions, which is pending SEC approval, is implemented.) Exposure presented by securities and funds-only settlement obligations will be taken in account upon novation.

5. Additional Margin

As is currently the case, GSCC would have the authority, under one or more of a variety of circumstances that may lead GSCC to believe that a member's financial or other condition may pose a risk of loss to GSCC, to place such member on surveillance status and to increase such margin deposit.

6. Loss Allocation

The procedure for allocation of loss need not be changed. Thus, if a member that engages in forward-settling trades becomes insolvent and defaults on its obligations to GSCC, upon the liquidation of all the Member's positions, if GSCC incurs a loss, such loss will be satisfied in the same manner as if the firm did only regular-way trading. No distinction is made with regard to whether and to what extent the loss arose in connection with forward-settling trading as opposed to regular-way trading; allocation of loss will continue as under current rules.

(b) The proposed rule change will encompass forward-settling Government securities transactions within the Netting System, and, thus, will further promote the prompt and accurate clearance of securities transactions for which GSCC is responsible and is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members Participants, or Others

Comments on the proposed rule change have not been solicited or received. Members will be notified of the rule filing, and comments will be solicited, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-GSCC-90-1 and should be submitted by April 2, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5682 Filed 3-12-90; 8:45 am]

BILLING CODE 8010-01-M

(Rel. No. 34-27772; File No. SR-MSE-89-11)

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change to Amend Article XX, Rule 37 (Guaranteed Execution System)

On December 22, 1989, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the Exchange's Article XX, Rule 37. The proposed amendment would modify the parameters for a guaranteed execution for an agency limit order when the bid or offering at the limit price has been exhausted in the primary market.

The proposed rule change was noticed in Securities Exchange Act Release No. 27589 (January 5, 1990), 55 FR 1125 (January 11, 1990). No comments were received on the proposal.

The Exchange proposes to amend Article XX, Rule 37 [3] in order to clarify that when a bid or offering has been exhausted in the primary market, agency limit orders in the book on the MSE will be executed, based on priority and precedence, on a share for share basis with trades executed at the limit price in the primary market. [4] Currently, Rule 37 requires the specialist to fill all agency orders (i.e., orders for the accounts of non-broker dealers) from 100 up to and including 2099 shares within certain guaranteed pricing parameters.[5]

The primary market protection rules currently set forth under Rule 37 are designed to assure that a customer's order will receive an execution on the MSE as good as it would have received in the primary market.[6] The purpose of

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] Article XX, Rule 37 provides that the MSE Guaranteed Execution System (the "BEST System") is available to Exchange members and, where applicable, to members of a participating exchange who send orders to the Exchange Floor through a foreign linkage established pursuant to Rule 42. The BEST System includes all issues in the MSE Specialist System that are traded in the Dual Trading System and NASDAQ/NMS securities.

[4] *See* Securities Exchange Act Release No. 27589 (January 5, 1990), 55 FR 1125 for the actual language of the proposed rule change.

[5] Generally, under Rule 37, market orders are guaranteed execution at the best bid or offer, while limit orders are guaranteed execution based on trading in the primary market.

[6] Current Rule 37 provides that agency limit orders in Dual Trading System issues will be filled on the MSE if (a) the bid or offering at the limit price has been exhausted in the primary market; or (b) there has been price penetration of the limit price in the primary market; or (c) the stock is trading at the limit price in the primary market, unless it can be shown that the order would not have been executed if it had been sent to the primary market (*i.e.*, insufficient volume has traded in the primary market at the limit price) or the broker and specialist agree to a specific volume related or other criteria for requiring a fill.

the proposed amendment to Rule 37 is to ensure that orders on the MSE receive the same fill as such orders would have received in the primary market, while avoiding the imposition of undue burdens upon the specialist to execute limit orders on the MSE when such orders would not have been executed in the primary market.

After careful review, the Commission finds that the proposed rule change is consistent with section 6(b) of the Act and, in particular, the section 6(b)(5) requirement that the rules of an exchange be designed "* * * to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest * * *." [7]

The MSE proposal does represent a decrease in the standard for execution of agency limit orders. The MSE's rationale for the decrease—lessening the burden on its specialists—reflects the limited capabilities of regional exchange specialists in providing supplemental market making liquidity to the primary market.[8] While the Commission would prefer to have the MSE specialists provide a more active market making function than the proposed rule change contemplates, the proposal still ensures that customers receive execution of the same number of shares of a limit order on the MSE that they would have received if their orders had been executed on the primary market. It is not inconsistent with the Act for the MSE to determine not to require MSE specialists to execute orders on the MSE that would not have been executed on the primary market. Additionally, the Commission notes that the Philadelphia Stock Exchange, Inc. ("Phlx") has similar rules which allow customers who have placed agency limit orders on the Phlx to receive the same fill as they would have received on the primary market.[9]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

[7] 15 U.S.C. 78f(b)(5) (1982).

[8] *See The October 1987 Market Break*, a report by the Division of Market Regulation, U.S. Securities and Exchange Commission, February 1988 at 4-42 to 4-48.

[9] *See* Phlx Rule 227, relating to odd-lot orders; and Phlx Rule 229, relating to orders executed via the Philadelphia Stock Exchange Automated Communication and Execution System (PACE).

[10] 15 U.S.C. 78s(b)(2) (1982).

[11] 17 CFR 200.30-3(a)(12) (1989).

Dated: March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5642 Filed 03-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27771; File No. SR-MSRB-89-14]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Municipal Securities Principal Qualification Examination (Series 53)

On December 19, 1989, the Municipal Securities Rulemaking Board ("Board") submitted a proposed rule change (File No. SR-MSRB-89-14) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), to revise the examination specifications and study outline for the Municipal Securities Qualification Examination (Series 53). The Board also requested in its filing that the Commission delay the effectiveness of the proposed rule change until July 1, 1990, to permit the Series 53 question bank to be updated to reflect the revised test specifications and study outline, and to provide time for information concerning the revised study outline to be circulated to the industry.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 27686 (February 7, 1990), 55 FR 5530. The Commission received no comments on the proposal. This order approves the proposal.

In its filing with the Commission, the Board stated that the study outline defines the subject matter that is tested by the examination. It is used by candidates to structure their study and to serve as a final checklist prior to sitting for the examination. It is also used by course developers in preparing training material and by training directors in the development of lecture notes and seminar programs. The Board stated that specific subjects and questions have been updated from time to time in the Series 53 examination to reflect changes in Board rules or applicable federal regulations. The Board stated that its Professional Qualifications Advisory Committee ("PQAC") determined recently that a comprehensive review of the current study outline should be undertaken to ensure that the subject matter was both current and reflected the actual functions of a municipal securities principal. The Board stated that after the review process was completed, it was determined that reorganization of the study outline's format was necessary so that the presentation of topics more closely resembled the functional responsibilities of municipal securities principals. The Board explained that PQAC's intent was to make the presentation of the subject matter job-related and meaningful for the candidates. PQAC concluded that the various topics should be expanded to include more detail than the present study outline, including more specific references to Board rules or other applicable federal regulations. PQAC then analyzed the specific tasks performed by a municipal securities principal and identified Board rules and federal regulations that govern these tasks. In addition, the following topics have been added: SEC Rule 15c2-12 on municipal securities disclosure, SEC Release No. 34-26100 on municipal underwriter responsibilities, proposed Board rule G36 on delivery of official statements to the Board, and the purpose and coverage limitations of the Securities Investor Protection Corporation.

The examination specifications detail how the questions asked on each examination are to be allocated among the various topics. The Board stated that the revised examination will remain a three-hour, 100-question examination administered by the National Association of Securities Dealers, Inc., using TRO's PLATO computer system.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board. In particular, the Commission finds that the proposal is consistent with section 15B(b)(2)(A) of the Act, which requires the Board to propose and adopt rules that

> provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless * * * such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meets such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors.

Section 15B(b)(2)(A) of the Act also provides that the Board may appropriately classify municipal securities brokers and municipal securities dealers and their associated personnel and require persons in any such class to pass tests prescribed by the Board.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that File No. SR-MSRB-89-14 be, and hereby is, approved, and shall become effective on July 1, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5643 Filed 3-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27770; File No. SR-PSE-90-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Stock Exchange, Inc. Relating to Confirmation of Good Until Cancelled Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 14, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend Exchange Rule II, Section 3(c), as set forth below: [Additions italicized; deletions bracketed]

Rule II—Confirmation of "GTC" Orders

Sec. 3(c)

Monthly: Specialists shall upon the specific request of a Member or Floor Representative submit a list of Manual "GTC" orders to such persons for confirmation at the close of business on the [third] Tuesday *before the second Wednesday* of each month.

All Specialists shall confirm SCOREX "GTC" orders in their books as of the close of trading on the Tuesday before the third Wednesday of each month.

Quarterly: Specialists shall submit a list of "GTC" orders to Members or Floor Representatives for confirmation at the close of business on the [third] Tuesday before the second Wednesday of the months of March, June, September and December. Members and Floor Representatives are required to check "GTC" orders with their order desks quarterly.

Note: When the [third] Tuesday *before the second or third Wednesday* is a holiday, such lists shall be submitted at the close of business on the preceding full business day.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The PSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

According to the Exchange, PSE Rule II, section 3(c) was designed to establish a procedure and requirement for members to make periodic reconfirmation of good until cancelled ("GTC") orders.[1] The purpose of this reconfirmation requirement is to ensure the continued effectiveness of such orders. PSE Rule II, section 3(c) currently provides that the monthly date for confirmation of good until cancelled ("GTC") orders is the third Tuesday of each month, while the quarterly confirmation date for GTC orders is the third Tuesday of the months of March, June, September and December.

The Exchange proposes to change the confirmation date of GTC orders from the third Tuesday of each month to the Tuesday before the second Wednesday. The Exchange believes that this deadline alteration will bring the system for confirmation of GTC orders into line with the general practice of other national securities exchanges.[2]

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, and, in particular, the section 6(b)(5) requirement that the proposed rule change foster cooperation and coordination with persons engaged in regulating and processing information with respect to, and facilitating transactions in, securities. The Exchange believes that the proposed rule change will act to facilitate and maintain transactions in PSE option issues by helping to insure the proper effectiveness and existence of GTC orders.

[1] All orders entered on the Exchange must be either "day," "immediate or cancel," or "good until cancelled". *See* PSE Rule I, Section 6(a).

[2] Specifically, the New York Stock Exchange, Inc. ("NYSE") has a similar rule. *See* NYSE Rule 2123A.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-90-05 and should be submitted by April 3, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5648 Filed 03-12-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27773; File No. SR-PSE-90-09]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Electronic Access Memberships

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 14, 1990, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to add a new section 14 to Exchange Rule IX, *Exchange Memberships,* of the Rules of the Board of Governors, relating to an electronic access membership system, known as Automated System Access Privilege ("ASAP"), for broker-dealers that are not members of the Exchange. The text of the proposed section is as follows:

Rule IX—Electronic Access Memberships

"Automated System Access Privilege (ASAP)"

Sec. 14. The Membership Committee shall approve automated system access to certain authorized broker-dealers ("ASAP Member") on the following terms and conditions:

(1) The ASAP Member must be a broker-dealer registered under section 15 of the Exchange Act.

(2) The ASAP Member agrees to abide by the Constitution, Rules, and Procedures of the Exchange, and consents to disciplinary and arbitration jurisdiction of the Exchange, to the extent that such jurisdiction relates to the dealings of the ASAP Member on the Exchange.

(3) The ASAP Member shall be entitled to access to SCOREX, POETS, and any other systems approved by the Board of Governors. Telephone access is prohibited to ASAP Members, except by special exception granted by the Board of Governors.

(4) The ASAP Member shall accept responsibility for the clearance and settlement of transactions resulting from orders the ASAP Member enters on the Exchange. Each ASAP Member shall sign an agreement with the Exchange, authorizing the Exchange to give up its name for the purpose of clearance and settlement of transactions resulting from orders it entered on the automated system of the Exchange. If an ASAP Member desires to clear its trades through an Exchange clearing member, the ASAP Member shall enter into an agreement with, and receive authorization from the Exchange clearing member, to give up the Exchange clearing member's symbol. Said agreement shall be filed with the Corporate Secretary of the Exchange.

(5) The ASAP Member may receive the access described above for a non-refundable, non-transferable annual fee, which the Board may amend each year at its discretion. If an ASAP Member becomes a regular member at the Exchange, however, the fee paid for the current year shall be subject to rebate prorated to the date of approval as a full member. Such annual fee shall be paid prior to the approval by the Exchange of an applicant for ASAP Membership, and prior to renewal of such membership at the end of the period for which such fee has been paid.

(6) Access by the ASAP Member shall be from the opening of trading at 6:30 a.m. until closing of trading on the applicable systems, which currently is 1 p.m. (p.s.t.).

(7) ASAP Members will be subject to all applicable transaction and comparison fees, as well as all applicable capital requirements.

(8) ASAP Members will be entitled to enjoy the rights and privileges provided for regular members, except those set forth in the constitution in Article III, sections 1(c) and 2(b) (no voting rights or eligibility for Governor) and Article V, sections 2 and 3 (definition of Privileges and Member), in section Four of the Exchange's Articles of Incorporation (distribution of assets to members), and the Signature Guarantee Program. ASAP Members may identify themselves as PSE Member Firms.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The purpose for creating the ASAP membership is to allow ASAP Members the ability to gain access to the Exchange's automated trading systems, including SCOREX [1] and POETS [2], without having to obtain a full PSE membership. The ASAP would provide the ASAP Member the limited right of access under specific guidelines as stated in the proposed rule, and would be provided to ASAP Members (qualified broker-dealers) that do not need physical access to the Equities and Options floors, or other rights associated with full membership. The ASAP Member would, however, have specific obligations and requirements, including compliance with the Act, the PSE Constitution and Rules, written authorizations for give up of symbols, transaction and comparison fees, and an annual fee for the use of the systems.

The Exchange believes that this limited electronic access will remove further impediments to, and better perfect the mechanism of a free and open market, in that the increased access to the floor will provide a wider range of benefits and obligations to the owners of PSE memberships, as well as to the ASAP members. The ASAP Member will have a better opportunity to route an order to a competitive market, thus ensuring better executions for the public customers represented by the ASAP Member.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act which requires that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

[1] SCOREX, the Securities Communication Order Routing and Execution System, is the PSE's automated execution system.

[2] POETS, the Pacific Options Exchange Trading System, is the PSE's automated options trading system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-90-09 and should be submitted by April 3, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-5644 Filed 3-13-90; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council Meeting

The U.S. Small Business Administration, Region IX Advisory Council, Located in the geographical area of Los Angeles, will hold a public meeting at 11 a.m. on Tuesday, March 13, 1990 at Churchill' Restaurant, 209 N. Glendale Ave, Glendale, CA 91206, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration, 330 No. Brand Blvd., Suite 1200, Glendale, CA 91203, Telephone No. (213) 894-2977.

Dated: March 7, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-5706 Filed 3-12-90; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council Meeting

The U.S. Small Business Administration, Region X Advisory Council, located in the geographical area of Boise, will hold a public meeting at 9 a.m. on Thursday, March 15, 1990 at the Red Lion Riverside, Cinnabar Room, 29th & Chinden Boulevard, Boise, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call Joseph G. Kaeppner, District Director, U.S. Small Business Administration, 1020 Main Street, Suite 290, Boise, Idaho, (208) 334-9641.

Dated: March 7, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-5705 Filed 3-12-90; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Meeting

The U.S. Small Business Administration, Region V Advisory Council, located in the geographical area of Indianapolis, will hold a public meeting at 9:30 a.m. on Wednesday, March 27, 1990 at Tippecanoe Country Club, Monticello, Indiana, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, Minton-Capehart Federal Building, room 578, 575 North Pennsylvania Street, Indianapolis, Indiana 46204-1584, (317) 226-7275.

Dated: March 7, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-5704 Filed 3-12-90; 8:45 am]

BILLING CODE 8025-01-M

National Small Business Development Center Advisory Board; Public Meeting

The National Small Business Development Center Advisory Board will hold a public meeting on Monday, March 19th, 1990 from 8:30 a.m. to 9:30 a.m. and on Tuesday, March 20th from 1:30 p.m. to 4 p.m. in the Second Floor Conference Room, at the Small Business Administration, 1441 L Street, NW., Washington, DC.

The purpose of the meeting is to discuss such matters as may be presented by Advisory Board Members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Hardy Patten, SBA, Room 317, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416, telephone (202) 653-6315.

Dated: March 7, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-5707 Filed 3-12-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Air Traffic Procedures Advisory Committee Meeting.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from April 9, at 9 a.m., through April 12, 1990, at 5 p.m..

ADDRESSES: The meeting will be held in the Administrator's Round Room, Federal Aviation Administration, 800 Independence Avenue, SW., Wash., DC.

FOR FURTHER INFORMATION CONTACT: Mr. John Mayrhofer, Executive Director, ATPAC, Air Traffic Operations Service, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3725.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given

of a meeting of the ATPAC to be held from April 9, at 9 a.m., through April 12, 1990, at 5 p.m., in the Administrator's Round Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC. The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of minutes.
2. Discussion of agenda items.
3. Discussion of urgent priority items.
4. Report from Executive Director.
5. Old Business.
6. New Business.
7. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than April 6, 1990. The next quarterly meeting of the FAA ATPAC is planned to be held from July 16 through July 20, 1990, in Honolulu, HI. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on March 7, 1990.

John Mayrhofer,

Executive Director, ATPAC.

[FR Doc. 90-5684 Filed 3-12-90; 8:45 am]

BILLING CODE 4910-13-M

Research, Engineering, and Development Advisory Committee, Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Federal Aviation Administration Research, Engineering, and Development Advisory Committee to be held Friday, April 6, 1990, at 9 a.m. The meeting will take place in the Department of Transportation/Transportation Systems Center, Kendall Square, 500 Broadway, Cambridge, Massachusetts.

The agenda for this meeting is as follows:

- Subcommittee Reports.
- Update of FY 1991, R, E&D Budget.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact Mr. John E. Turner, Executive Director, Research, Engineering, and Development Advisory Committee, ADM-1, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3555.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on March 6, 1990.

John E. Turner,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 90-5683 Filed 3-12-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Empire Federal Savings Bank of America; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Empire Federal Savings Bank of America, Buffalo, New York ("Savings Bank") on February 28, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5670 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Conservator; Haven Savings and Loan Association, F.A.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Haven Savings and Loan Association, F.A., Winter Haven, Florida ("Association"), on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5671 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Conservator; New Athens Federal Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for New Athens Federal Savings and Loan Association, New Athens, Illinois ("Association") on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5672 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

North Carolina Savings and Loan Association, F.A., Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for North Carolina Savings and Loan Association, F.A., Charlotte, North Carolina ("Association"), on March

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5673 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Pima Savings and Loan Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by Section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Pima Savings and Loan Association,

Tucson, Arizona ("Association") on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5674 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Security Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Security Federal Savings Association, Richmond, Virginia ("Association") on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5675 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Centennial Federal Savings and Loan Association; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Centennial Federal Savings and Loan Association, Greenville, Texas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5681 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Empire of America Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Empire of America Federal Savings Bank, Buffalo, New York ("Savings Bank") on February 28, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5676 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Haven Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Haven Federal Savings and Loan Association, Winter Haven, Florida ("Association"), on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5677 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

New Athens Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for New Athens Savings and Loan Association, New Athens, Illinois ("Association") on March 2, 1990.

Dated: March 7, 1990.

Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5678 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

North Carolina Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for North Carolina Federal Savings and Loan Association, Charlotte, North Carolina ("Association"), on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5679 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Security Federal Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(A) and (B) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Security Federal Savings and Loan Association, Richmond, Virginia ("Association"), on March 2, 1990.

Dated: March 7, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-5680 Filed 3-12-90; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 49
Tuesday, March 13, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, March 19, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 9, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-5877 Filed 3-9-90; 3:18 pm]

BILING CODE 6210-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9:00 a.m., March 19, 1990.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of last meeting.
2. Thrift Savings Plan activities report by the Executive Director.
3. Audit program review.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: March 8, 1990.

Francis X. Cavanaugh,

Federal Retirement Thrift Investment Board.

[FR Doc. 90-5878 Filed 3-9-90; 3:39 pm]

BILING CODE 6760-01-M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Monday, March 19, 1990.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 31607
Pittsburgh & Lake Erie Railroad Acquisition Cooperation—Exemption, Acquisition and Operation—Assets of the Pittsburgh & Lake Erie Railroad Company

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of Government and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,

Secretary.

[FR Doc. 90-5876 Filed 3-9-90; 3:18 pm]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 12, 19, 26, and April 2, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of March 12

Monday, March 12

2:00 p.m.
Briefing on the Development of LLW Disposal Capability by the Southwestern Compact (Public Meeting)

Thursday, March 15

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting)
a. Fitness for Duty Rule Stay Request Filed by Several Diablo Canyon Employees (Tentative)

Week of March 19—Tentative

Tuesday, March 20

10:00 a.m.
Briefing on Recommended Action for Substandard Parts (Public Meeting)

Thursday, March 22

3:30 p.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of March 26—Tentative

Thursday, March 29

10:00 a.m.
Periodic Briefing on Progress of Resolution of Generic Safety Issues (Public Meeting)
11:30 a.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Week of April 2—Tentative

Tuesday, April 3

8:30 a.m.
Collegial Discussion of Items of Commissioner Interest (Public Meeting)
2:00 p.m.
Briefing on Economic Incentive Regulation of Nuclear Power Plants (Public Meeting)

Friday, April 6

11:30 a.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmative sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meetings Call (Recording)—(301) 492-0292

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 492-1661.

Dated: March 8, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90-5870 Filed 3-9-90; 2:55 pm]

BILLING CODE: 7590-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.C.S. 552b), notice is hereby given that on Wednesday, February 28, 1990, at 9:41 a.m., the Board of Directors of the Resolution Trust Corporation met in closed session to consider certain matters relating to the resolution of three thrift institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director M. Danny Wall, (Director of the

Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven day's notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: February 28, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–5846 Filed 3–9–90; 1:58 pm]

BILLING CODE 6714–01–M

federal register

Tuesday
March 13, 1990

Part II

Department of Education

Robert C. Byrd Honors Scholarship Program; Notice

DEPARTMENT OF EDUCATION

Robert C. Byrd Honors Scholarship Program

AGENCY: Department of Education.

ACTION: Notice of Final Procedures for Implementing the Robert C. Byrd Honors Scholarship Program in Fiscal Year 1990.

SUMMARY: The Secretary establishes procedures necessary to implement certain aspects of the Robert C. Byrd Honors Scholarship Program (the Byrd Scholarship Program), in fiscal year 1990 in accordance with the provisions of the program statute (title IV, part A, subpart 6 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070d–31 *et seq.*) and the program regulations, published at 54 FR 12549 and codified at 34 CFR part 654, as superseded by Public Law 101–166, the Department of Education Appropriations Act, 1990 (1990 appropriations act). Grant awards to the States for fiscal year 1990 are governed by applicable provisions of the program statute, the program regulations, and the procedures in this Notice.

EFFECTIVE DATE: This Notice takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. A document announcing the effective date will be published in the **Federal Register**. If you want to know the effective date of this Notice, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Fred H. Sellers, Chief, State Student Incentive Grant Section (Room 4018, ROB #3), Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5447, Telephone (202) 732–4507.

SUPPLEMENTARY INFORMATION: Under the Byrd Scholarship Program, the Secretary makes available, through grants to the States, scholarships to outstanding high school graduates for the first year of study at institutions of higher education. In the Department of Education Appropriations Act, 1990, Congress appropriated $8.627 million for the Byrd Scholarship Program. Pursuant to the Department of Education Appropriations Act, 1990, as was also the case in fiscal years 1987, 1988, and 1989, sections 419G(b) and 419I(a) of the program statute do not apply to the administration of the program in fiscal year 1990. Therefore, §§ 654.20(a) and 654.50(a)(4) of the program regulations published as final regulations on June 20, 1989 (54 FR 26006) also do not apply to the administration of the program in fiscal year 1990. The Secretary adopts the following procedures for fiscal year 1990 in lieu of the statutory and regulatory provisions which have been superseded by the 1990 appropriation language. These procedures are necessary for the administration of those aspects of the program which, due to superseding statutory provisions in the 1990 appropriations act, are not governed by provisions of the program statute and regulations.

1. The Secretary allots to the States the funds appropriated for the Byrd Scholarship Program in fiscal year 1990 in accordance with the provisions of section 419D of the program statute, except that the amount allotted for scholarship payments to each State is $1,500 multiplied by the number of scholarships that the Secretary has assigned to the State. The Secretary assigns to each State participating in the program the number of Byrd Scholarships which bears the same ratio to the total number of scholarships made available to all States as the State's school-aged population (ages five through seventeen) bears to the total school-aged population in all participating States, except that no State shall receive fewer than 10 scholarships. The population figures used to calculate the allotment of funds are determined by the most recently available data from the United States Census Bureau.

2. States shall administer their fiscal year 1990 allotments under the Byrd Scholarship Program, for scholarships for academic year 1990–91, in accordance with applicable provisions of the program statute and the final program regulations. However, since sections 419G(b) and 419I(a) of the program statute do not apply to the fiscal year 1990 appropriation, States shall also administer their fiscal year 1990 allotments in accordance with the following procedures—

(a) Byrd Scholars shall be selected solely on the basis of demonstrated outstanding academic achievement, promise of continued academic achievement, and the geographic consideration described in item 2(b) below.

(b) Byrd Scholars shall be selected in such a way that all parts of a State are fairly represented, and no part of a State has a disproportionate share of awards.

Waiver of Notice of Proposed Rulemaking. In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. The Secretary solicited public comments on these same procedures, resulting from identical appropriation language in the 1987 Appropriations Act, in fiscal year 1987, through a Notice of Proposed Procedures published in the **Federal Register**. No comments were received. The same special procedures were subsequently published in final form and implemented in fiscal years 1988 and 1989. Since it is imperative for State educational agencies to receive their program allotments in time to make scholarship awards and payments by the end of the high school academic year during which the scholars have graduated, as required by section 419I(b) of the program statute (20 U.S.C. 1070d–39(b)), the Secretary finds that publication of a Notice of Proposed Procedures for fiscal year 1990 is impracticable and contrary to the public interest under 5 U.S.C. 553(b)(B).

Authority: 20 U.S.C. 1070d–31 *et seq.*

Dated: February 22, 1990.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.185, Robert C. Byrd Honors Scholarship Program)

[FR Doc. 90–5632 Filed 3–12–90; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
March 13, 1990

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 740

Federal Lands Program; Surface Coal Mining and Reclamation Operations; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 740

RIN 1029-AA76

Federal Lands Program; Surface Coal Mining and Reclamation Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending a portion of the Federal lands regulations to conform to the July 6, 1984, decision of the U.S. District Court for the District of Columbia. This final rule amends the applicability of the Federal lands program in a manner consistent with the District Court decision.

EFFECTIVE DATE: April 12, 1990.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Block, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW, Washington, DC 20240. Telephone: 202-343-1864 (commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

Section 523(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires the Secretary to promulgate and implement a Federal lands program applicable to all surface coal mining and reclamation operations taking place pursuant to any Federal law on Federal lands. Under section 523(c) of SMCRA, a State with an approved State program may enter into a cooperative agreement with the Secretary of the Interior (hereinafter referred to as the Secretary) to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. Section 523(c) provides, however, that the Secretary may not delegate to the State his responsibilities: (1) To approve mining plans on Federal lands under the Mineral Leasing Act, as amended (MLA), (2) to designate Federal lands as unsuitable for surface coal mining pursuant to section 522 of SMCRA, or (3) to regulate other activities taking place on Federal lands.

On March 13, 1979, the Secretary promulgated the Federal lands program, 30 CFR Chapter VII, Subchapter D (44 FR 15332-15341). That program was amended on February 16, 1983 (48 FR 6912-6941). A notice correcting certain editorial errors and omissions in the February 16, 1983, rule was published on April 1, 1983 (48 FR 13984).

The February 16, 1983, rule was designed to allow States to assume greater responsibility for administering the requirements of SMCRA on Federal lands. That rule established provisions limiting the applicability of the Federal lands program to exclude lands containing unleased Federal coal beneath privately owned surface.

The February 16, 1983, rule was challenged in Round I of *In re: Permanent Surface Mining Regulation Litigation (II),* Civil Action No. 79-1144 (D.D.C. 1984). The court ruled on the challenge on July 6, 1984, and in an amended order on August 30, 1984.

Among other things, the court ruled, with respect to the applicability of the Federal lands program, that the February 16, 1983, regulations inappropriately limited the applicability of the Federal lands program by excluding lands containing unleased Federal coal beneath State or private surface. Since the court ruling, OSM has been applying the Federal lands program to such lands in accordance with the ruling.

On May 31, 1989, OSM published in the **Federal Register** (54 FR 23388) a proposed rule to revise the applicability of the Federal lands program and to make certain other changes for clarity and consistency with existing requirements concerning the responsibilities of the Bureau of Land Management (BLM).

II. Discussion of Final Rule and Response to Public Comments

30 CFR Part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands

The general requirements for surface coal mining and reclamation operations on Federal lands are described under 30 CFR part 740. As proposed to conform with current BLM terminology, references to BLM regulations at "43 CFR parts 3480-3487" are changed to "43 CFR Group 3400."

Section 740.4—Responsibilities

The proposed rule also contained editorial and organizational changes to § 740.4(d) that are not adopted in this rulemaking. Section 740.4(d) describes the responsibilities of BLM for exploration on Federal lands where BLM has regulatory jurisdiction pursuant to its implementing regulations. The purpose of the proposed changes was to clarify the responsibilities of BLM with respect to exploration on Federal lands under the regulations at 43 CFR Group 3400. These proposed changes are not adopted at this time, but may be reexamined in light of and in conjunction with proposed changes under consideration by BLM to its rules on the same subject.

Section 740.11—Applicability

Section 740.11 contains the applicability provisions of the Federal lands program. Paragraphs (a) (2) and (3) of the September 16, 1983, rule applied the Federal lands program to surface coal mining and reclamation operations on lands containing leased Federal coal and on lands where either the coal to be mined or the surface is owned by the United States, thereby excluding lands containing non-Federal surface and unleased Federal coal. The District Court in *In re: Permanent Surface Mining Regulation Litigation (II),* Civil Action No. 79-1144 (D.D.C. 1984), ruled that the general exclusion from the Federal lands program of surface coal mining operations on private or State-owned surface overlying unleased Federal coal was inconsistent with SMCRA.

The final applicability section of the Federal lands program provides that upon approval or promulgation of a regulatory program for a State, that program and the Federal lands program (30 CFR Chapter VII, Subchapter D) shall apply to surface coal mining and reclamation operations taking place on any Federal lands as defined in 30 CFR 700.5, and lands (except Indian lands) over leased or unleased Federal minerals. This means that where such operations occur on lands where the surface, the minerals, or both, are Federally owned, the Federal lands program and the approved regulatory program will apply. The final rule has been changed in response to comments to make this applicability explicit.

Five comment letters were received concerning the proposed applicability provisions. Two commenters suggested that the wording of § 740.11(a)(2) include a definition of the term "Federal lands" to make clear that it means Federal surface and leased or unleased Federal minerals. This rulemaking amends the applicability provision of the Federal lands program regulations consistent with the existing definition of Federal lands at 30 CFR § 700.5. That definition defines Federal lands as ". . . any land, including mineral interests, owned by the United States, without regard to how

the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands * * *." The definition of Federal lands recommended by the commenters agrees with the existing definition in 30 CFR 700.5 as Judge Flannery construed it. However, in response to these comments OSM has decided to clarify in the rule language itself that the Federal lands program applies to lands (except Indian lands) over leased or unleased Federal minerals.

One commenter opposed the broadening of the applicability provision to include every mining operation on private and State-owned surface overlying Federal coal. The commenter stated that when the District Court for the District of Columbia ruled on the applicability of the Federal lands program, it explicitly endorsed an "affected by" test to determine the Federal lands program jurisdiction. The commenter said that to apply the Federal lands program in all cases to the surface estate over an unleased Federal coal interest that may never be mined or affected by mining activities would not serve any useful purpose. The commenter suggested that the language of § 740.11(a)(2) be modified to apply to surface coal mining and reclamation operations on lands where either the surface or mineral interests owned by the United States will be directly affected by such operations.

The applicability standard adopted by OSM is consistent with the definition of Federal lands in SMCRA section 701(4) and 30 CFR 700.5, and the requirement in SMCRA section 523(a) that the Federal lands program apply to all surface coal mining operations on Federal lands. It is also easy to administer. An "affected by" test would be very difficult to administer. A determination that the Federal interest would or would not be affected would have to be made on a case-by-case basis, and could be subject to different interpretations.

One commenter asked whether it can be assumed that no Federal approval would be required for unleased Federal coal under private or State surface and would States having cooperative agreements under section 523(a) of SMCRA to regulate surface coal mining operations on Federal lands, only be required to consult with OSM and BLM prior to issuing permits to ensure protection of the Federal coal. Another commenter interpreted the proposed language to mean that BLM's responsibility is limited to matters related directly to coal recoverability present or future and that cooperative agreement states should only be required to consult with BLM and OSM prior to taking permitting actions to ensure protection of the Federal coal resource.

To conduct surface coal mining operations on private or State surface overlying unleased Federal coal, an applicant is required to obtain a permit under the Federal lands program at 30 CFR part 740 from OSM, or the State if there is a cooperative agreement which provides for State permitting on such Federal lands. OSM would retain any responsibility not delegated to a State under a cooperative agreement. Section 773.13(a)(3)(ii) requires the regulatory authority to nofity those Federal agencies with an interest in the proposed operation, thus affording BLM the opportunity to review and comment on the proposed operation with respect to its responsibilities to ensure protection of the Federal interest. BLM may exercise, if necessary, any authority under Federal law which it administers to protect the Federal interest. The regulatory authority would normally consult with BLM where specified in a cooperative agreement or to ensure protection of the Federal interest. Also, since many State laws cover such split-estate lands and do require the concurrence of the mineral owner, in some cases Federal approval may be required. The regulatory authority in such cases would consult with BLM in accordance with applicable State law.

Another commenter stated that the proposed rules do not address processing procedures for permit and revision applications on Federal lands in States with cooperative agreements where the surface is non-Federal and the Federal coal is unleased. The commenter said that the current rules detail procedures only for leased Federal coal and/or Federal surface.

The Federal lands program at 30 CFR Part 740 applies to unleased coal under non-Federal surface. The applicable permit processing requirements of § 740.13 apply in such cases just as for any other Federal lands. In States with cooperative agreements, the permit is processed by the State. In States with no cooperative agreement or with a Federal program, OSM issues the permit.

III. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain collections of information which would require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that it would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule does not distinguish between small and large entities. These determinations are based on the findings that the regulatory additions in the rule would not change costs to industry or to the Federal, State, or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

National Environmental Policy Act

The proposed rule is part of the Federal lands program, the promulgation of which is exempt under section 702(d) of SMCRA (30 U.S.C. 1292(d)), from compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Author

The principal author of this rule is Dr. Fred Block, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–1864 (Commercial or FTS).

List of Subjects in 30 CFR Part 740

Coal mining, Public lands, Mineral resources, Reporting requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Part 740 is amended as set forth below.

Dated: February 5, 1990.

Dave O'Neal,

Assistant Secretary, Land and Minerals Management.

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

1. The authority citation for part 740 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and 30 U.S.C. 181 *et seq.*

2. In 30 CFR Part 740, remove "43 CFR Parts 3480–3487" and "43 CFR Part 3400" and replace them with "43 CFR Group 3400" everywhere they appear except in § 740.15.

3. In § 740.11, add "and" at the end of paragraph (a)(1), remove paragraph (a)(3), and revise paragraph (a)(2) to read as follows:

§ 740.11 Applicability.

(a) * * *

(2) Surface coal mining and reclamation operations taking place on any Federal lands as defined in § 700.5 of this chapter, and lands (except Indian lands) over leased or unleased Federal minerals.

* * * * *

§ 740.15 [Amended]

4. In § 740.15, paragraph (d)(1) is amended by removing "43 CFR Parts 3480–3487 and 43 CFR Part 3400" and replacing it with "43 CFR Group 3400".

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federal register

Tuesday
March 13, 1990

Part IV

The President

Proclamation 6107—Harriet Tubman Day, 1990

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6107 of March 9, 1990

Harriet Tubman Day, 1990

By the President of the United States of America

A Proclamation

In celebrating Harriet Tubman's life, we remember her commitment to freedom and rededicate ourselves to the timeless principles she struggled to uphold. Her story is one of extraordinary courage and effectiveness in the movement to abolish slavery and to advance the noble ideals enshrined in our Nation's Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

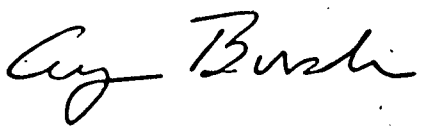
After escaping from slavery herself in 1849, Harriet Tubman led hundreds of slaves to freedom by making a reported 19 trips through the network of hiding places known as the Underground Railroad. For her efforts to help ensure that our Nation always honors its promise of liberty and opportunity for all, she became know as the "Moses of her People."

Serving as a nurse, scout, cook, and spy for the Union Army during the Civil War, Harriet Tubman often risked her own freedom and safety to protect that of others. After the war, she continued working for justice and for the cause of human dignity. Today we are deeply thankful for the efforts of this brave and selfless woman—they have been a source of inspiration to generations of Americans.

In recognition of Harriet Tubman's special place in the hearts of all who cherish freedom, the Congress has passed Senate Joint Resolution 257 in observance of "Harriet Tubman Day," March 10, 1990, the 77th anniversary of her death.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim March 10, 1990, as Harriet Tubman Day, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of March, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.



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